



भारत का राजपत्र The Gazette of India

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No. 33]

NEW DELHI, SATURDAY, AUGUST 19, 1995/SARAVANA 28, 1917

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में
रखा जा सके

Separate Paging is given to this Part in order that it may be filed as a
separate compilation

भाग II—खण्ड 3—उप-खण्ड (II)
PART II—Section 3—Sub-Section (II)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएँ
Statutory Orders and Notifications issued by the Ministries of the Government of India
(other than the Ministry of Defence)

विधि, न्याय और कंपनी कार्य मंत्रालय
(विधि कार्य विभाग)

न्यायिक अनुभाग

सूचना

नई दिल्ली, 28 जुलाई 1995

का. प्रा. 2222.—नोटरीज नियम, 1956 के नियम 6क के अनुसरण में सक्षम प्राधिकारी द्वारा यह सूचना दी जाती है कि श्री सुखदेव सिंह, एडवोकेट ने उक्त प्राधिकारी को उक्त नियम के नियम 4 के अधीन एक आवेदन हम बात के लिए दिया है कि उसे जैतु, फरीदकोट जिला, (पंजाब राज्य) में व्यवसाय करने के लिए नोटरी के रूप में नियुक्ति पर किसी भी प्रकार का आपेक्ष इस सूचना के प्रकाशन के चौदह दिन के भीतर लिखित रूप से मेरे पास भेजा जाए।

[सं.एफ 5 (132)/95—न्यायिक
पी.सी. कन्नन सक्षम प्राधिकारी

MINISTRY OF LAW, JUSTICE & COMPANY AFFAIRS

(Department of Legal Affairs)

(Judicial Section)

NOTICE

New Delhi, the 28th July, 1995

S.O. 2222.—Notice is hereby given by the Competent Authority in pursuance of Rule 6a of the Notaries Rules, 1956 that application has been made to the said Authority, under Rule 4 of the said Rules, by Shri Sukhdev Singh, Advocate for appointment as a Notary to practise in Jaitu District Faridkot (Punjab).

2. Any objection to the appointment of the said person as a Notary may be submitted in writing to the undersigned within fourteen days of the publication of this notice.

[No. F. 5(132)/95-Judl.]

P. C. KANNAN, Competent Authority

सूचना

नई दिल्ली, 31 जुलाई 1995

का.प्रा. 2223.—नोटरीज नियम, 1956 के नियम 6 के अनुसरण में सक्षम प्राधिकारी द्वारा यह सूचना दी जाती है कि श्री रमेश कुमार अग्रवाल, एडवोकेट ने उक्त प्राधिकारी को उक्त नियम के नियम 4 के अधीन एक आवेदन इस बात के लिए दिया है कि उसे दार्जिलिंग जिला (पश्चिम बंगाल) में व्यवसाय करने के लिए नोटरी के रूप में नियुक्ति पर किसी भी प्रकार का आक्षेप इस सूचना के प्रकाशन के चौदह दिन के भीतर लिखित रूप से मेरे पास भेजा जाए।

[सं. 5(124)/95-न्यायिक]

पी. सी. कण्णन्, सक्षम प्राधिकारी

NOTICE

New Delhi, the 31st July, 1995

S.O. 2223.—Notice is hereby given by the Competent Authority in pursuance of Rule 6a of the Notaries Rules, 1956 that application has been made to the said Authority, under Rule 4 of the said Rules, by Sh. Ramesh Kumar Agarwal, Advocate for appointment as a Notary to practise in Darjeeling District (West Bengal).

2. Any objection to the appointment of the said person as a Notary may be submitted in writing to the undersigned within fourteen days of the publication of this notice.

[No. F. 5(124)/95-Judl.]

P. C. KANNAN, Competent Authority

सूचना

नई दिल्ली, 31 जुलाई 1995

का.प्रा. 2224.—नोटरीज नियम, 1956 के नियम 6 के अनुसरण में सक्षम प्राधिकारी द्वारा यह सूचना दी जाती है कि श्री खेम चन्द एडवोकेट ने उक्त प्राधिकारी को उक्त नियम के नियम 4 के अधीन एक आवेदन इस बात के लिए दिया था कि उसे जिला न्यायालय, मेरठ उत्तर प्रदेश में व्यवसाय करने के लिए नोटरी के रूप में नियुक्ति पर किसी भी प्रकार का आक्षेप इस सूचना के प्रकाशन के चौदह दिन के भीतर लिखित रूप से मेरे पास भेजा जाए।

[सं. 5(123)/95-न्यायिक]

पी. सी. कण्णन्, सक्षम प्राधिकारी

NOTICE

New Delhi, the 31st July, 1995

S.O. 2224.—Notice is hereby given by the Competent Authority in pursuance of Rule 6 of the Notaries Rules, 1956 that application has been made to the said Authority, under Rule 4 of the said Rules, by Khem Chand, Advocate for appointment as a Notary to practise in District Courts Meerut (U.P.).

2. Any objection to the appointment of the said person as a Notary may be submitted in writing to the undersigned within fourteen days of the publication of this notice.

[No. F. 5(123)/95-Judl.]

P. C. KANNAN, Competent Authority

सूचना

नई दिल्ली, 31 जुलाई 1995

का.प्रा. 2225.—नोटरीज नियम, 1956 के नियम 6 के अनुसरण में सक्षम प्राधिकारी द्वारा यह सूचना दी जाती है कि श्री गुलाब सिंह एडवोकेट ने उक्त प्राधिकारी को उक्त नियम के नियम 4 के अधीन एक आवेदन इस बात के लिए दिया है कि उसे भीमगंज मंडी, (कोटा) राजस्थान में व्यवसाय करने के लिए नोटरी के रूप में नियुक्ति पर किसी भी प्रकार का आक्षेप इस सूचना के प्रकाशन के चौदह दिन के भीतर लिखित रूप से मेरे पास भेजा जाए।

[सं. 5(126)/95-न्यायिक]

पी. सी. कण्णन्, सक्षम प्राधिकारी

NOTICE

New Delhi, the 31st July, 1995

S.O. 2225.—Notice is hereby given by the Competent Authority in pursuance of Rule 6a of the Notaries Rules, 1956 that application has been made to the said Authority under Rule 4 of the said Rules, by Shri Gulab Singh, Advocate for appointment as a Notary to practise in Bhimganj Mandi in Kota (Rajasthan).

2. Any objection to the appointment of the said person as a Notary may be submitted in writing to the undersigned within fourteen days of the publication of this notice.

[No. F. 5(126)/95-Judl.]

P. C. KANNAN, Competent Authority

सूचना

नई दिल्ली, 31 जुलाई 1995

का.प्रा. 2226.—नोटरीज नियम, 1956 के नियम 6 के अनुसरण में सक्षम प्राधिकारी द्वारा यह सूचना दी जाती है कि श्री महावीर प्रसाद खीचर, एडवोकेट ने उक्त प्राधिकारी को उक्त नियम के नियम 4 के अधीन एक आवेदन इस बात के लिए दिया है कि उसे नवलगढ़, झुंझुनू जिला (राजस्थान) में व्यवसाय करने के लिए नोटरी के रूप में नियुक्ति पर किसी भी प्रकार का आक्षेप इस सूचना के प्रकाशन के चौदह दिन के भीतर लिखित रूप से मेरे पास भेजा जाए।

[सं. 5(127)/95-न्यायिक]

पी. सी. कण्णन्, सक्षम प्राधिकारी

NOTICE

New Delhi, the 31st July, 1995

S.O. 2226.—Notice is hereby given by the Competent Authority in pursuance of Rule 6 of the Notaries Rules, 1956 that application has been made to the said Authority, under Rule 4 of the said Rules, by Shri Mahabir Prasad Khicher, Advocate for appointment as a Notary to practise in Nawalgarh, District Jhunjhunu (Rajasthan).

2. Any objection to the appointment of the said person as a Notary may be submitted in writing to the undersigned within fourteen days of the publication of this notice.

[No. F. 5(127)/95-Judl.]

P. C. KANNAN, Competent Authority

सूचना

नई दिल्ली, 31 जुलाई, 1995

का.प्रा. 2227.—नोटरीज नियम, 1956 के नियम 6क के अनुसरण में सक्षम प्राधिकारी द्वारा यह सूचना दी जाती है कि श्री एम. चिदम्बरम, एडवोकेट ने उक्त प्राधिकारी को उक्त नियम के नियम 4 के अधीन एक आवेदन इस बात के लिए दिया है कि उसे जार्ज टाउन, मद्रास (तामिलनाडु) व्यवसाय करने के लिए नोटरी के रूप में नियुक्ति पर किसी भी प्रकार का आपेक्ष इस सूचना के प्रकाशन के चौदह दिन भीतर लिखित रूप से मेरे पास भेजा जाए।

[सं. 5(125)/95-न्यायिक]

पी. सी. कण्णन्, सक्षम प्राधिकारी

NOTICE

New Delhi, the 31st July, 1995

S.O. 2227.—Notice is hereby given by the Competent Authority in pursuance of Rule 6a of the Notaries Rules, 1956 that application has been made to the said Authority, under Rule 4 of the said Rules, by Shri M. Chidambaram, Advocate for appointment as a Notary to practise in Georgetown in Madras (Tamil Nadu).

2. Any objection to the appointment of the said person as a Notary may be submitted in writing to the undersigned within fourteen days of the publication of this notice.

[No. F. 5(125)/95-Judl.]

P. C. KANNAN, Competent Authority

सूचना

नई दिल्ली, 1 अगस्त, 1995

का.प्रा. 2228.—नोटरीज नियम, 1956 के नियम 6क के अनुसरण में सक्षम प्राधिकारी द्वारा यह सूचना दी जाती है कि श्री बीसालाल, एडवोकेट, ने उक्त प्राधिकारी को उक्त नियम के नियम 4 के अधीन एक आवेदन इस बात के लिए दिया है कि उसे जयपुर राजस्थान में व्यवसाय करने के लिए नोटरी के रूप में नियुक्ति पर किसी भी प्रकार का आपेक्ष इस सूचना के प्रकाशन के चौदह दिन के भीतर लिखित रूप से मेरे पास भेजा जाए।

[सं. 5(130)/95-न्यायिक]

पी. सी. कण्णन्, सक्षम प्राधिकारी

NOTICE

New Delhi, the 1st August, 1995

S.O. 2228.—Notice is hereby given by the Competent Authority in pursuance of Rule 6a of the Notaries Rules, 1956 that application has been made to the said Authority,

under Rule 4 of the said Rules, by Shri Gheesa Lal, Advocate, for appointment as a Notary to practise in Jaipur (Rajasthan).

2. Any objection to the appointment of the said person as a Notary may be submitted in writing to the undersigned within fourteen days of the publication of this notice.

[No. F. 5(130)/95-Judl.]

P. C. KANNAN, Competent Authority

सूचना

नई दिल्ली, 1 अगस्त, 1995

का.प्रा. 2229.—नोटरीज नियम, 1956 के नियम 6क के अनुसरण में सक्षम प्राधिकारी द्वारा यह सूचना दी जाती है कि श्री दिलिप रामकृष्णराव सोलंकी एडवोकेट ने उक्त प्राधिकारी को उक्त नियम के नियम 4 के अधीन एक आवेदन इस बात के लिए दिया है कि उसे मजालगांव, जिना बीड महाराष्ट्र में व्यवसाय करने के लिए नोटरी के रूप में नियुक्ति पर किसी भी प्रकार का आपेक्ष इस सूचना के प्रकाशन के चौदह दिन के भीतर लिखित रूप से मेरे पास भेजा जाए।

[सं. 5(129)/95-न्यायिक]

पी. सी. कण्णन्, सक्षम प्राधिकारी

NOTICE

New Delhi, the 1st August, 1995

S.O. 2229.—Notice is hereby given by the Competent Authority in pursuance of Rule 6a of the Notaries Rules, 1956 that application has been made to the said Authority, under Rule 4 of the said Rules, by Shri Dilip Ramkrishnarao Solanke for appointment as a Notary to practise in Majalgaon, District Beed (Maharashtra).

2. Any objection to the appointment of the said person as a Notary may be submitted in writing to the undersigned within fourteen days of the publication of this notice.

[No. F. 5(129)/95-Judl.]

P. C. KANNAN, Competent Authority

सूचना

नई दिल्ली, 1 अगस्त, 1995

का.प्रा. 2230.—नोटरीज नियम, 1956 के नियम 6क के अनुसरण में सक्षम प्राधिकारी द्वारा यह सूचना दी जाती है कि सत्यविजय होसाबन्ना नायक, एडवोकेट ने उक्त प्राधिकारी को उक्त नियम के नियम 4 के अधीन एक आवेदन इस बात के लिए दिया है कि उसे अंकोला, जिना उत्तरी कन्नडा (कर्नाटक) में व्यवसाय करने के लिए नोटरी के रूप में नियुक्ति पर किसी भी प्रकार का आपेक्ष इस सूचना के प्रकाशन के चौदह दिन के भीतर लिखित रूप से मेरे पास भेजा जाए।

[सं. 5(128)/95-न्यायिक]

पी. सी. कण्णन्, सक्षम प्राधिकारी

NOTICE

New Delhi, the 1st August, 1995

S.O. 2230.—Notice is hereby given by the Competent Authority in pursuance of Rule 6a of the Notaries Rules, 1956 that application has been made to the said Authority,

under Rule 4 of the said Rules, by Shri Satyavijay Hosabanna Nayak, Advocate for appointment as a Notary to practise in Ankola, District Utra Kannada (Karnataka).

2. Any objection to the appointment of the said person as a Notary may be submitted in writing to the undersigned within fourteen days of the publication of this notice.

[No. F. 5(128)/95-Judl.]

P. C. KANNAN, Competent Authority

वित्त मंत्रालय

(आर्थिक कार्य विभाग)

नई दिल्ली, 31 जुलाई, 1995

का.ग्रा. 2231.—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियमावली, 1976 के नियम-10 के उप-नियम (4) के अनुसरण में वित्त मंत्रालय, आर्थिक कार्य विभाग के प्रशासनिक नियंत्रण में स्थित भारतीय साधारण बीमा निगम के निम्नलिखित कार्यालयों को जिनके 80 प्रतिशत से अधिक कर्मचारीवृन्द ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, अधिसूचित करती है :—

I. कंपनी का नाम : दि न्यू इंडिया एश्योरेस कंपनी लिमिटेड

1. मण्डल कार्यालय, बेलगुर
2. मंडल कार्यालय, ताडदेव
3. शाखा कार्यालय, कल्याण
4. शाखा कार्यालय, चेम्बूर

II. कंपनी का नाम : ओरिएण्टल इश्योरेस कंपनी लिमिटेड

1. मंडल कार्यालय-19, नयी दिल्ली
2. मंडल कार्यालय, 20, नयी दिल्ली
3. मंडल कार्यालय-2, गुडगांव
4. मंडल कार्यालय, ईटानगर

III. कंपनी का नाम : नेशनल इश्योरेस कंपनी लिमिटेड

1. क्षेत्रीय कार्यालय, पुणे
2. मंडल कार्यालय-1, पुणे
3. शाखा कार्यालय, लातूर
4. शाखा कार्यालय, धूलिया
5. शाखा कार्यालय, मापुसा, गोवा
6. शाखा कार्यालय, बीचोलीन, गोवा
7. शाखा कार्यालय, फोण्डा, गोवा
8. शाखा कार्यालय, चिचंबड, पुणे

[संख्या 11013/4/94-हि.का.क.]

सुधीर कुमार वर्मा, अवसर सचिव

MINISTRY OF FINANCE

(Department of Economic Affairs)

New Delhi, the 31st July, 1995

S.O. 2231.—In pursuance of Sub-Rule (4) of Rule 10 of the Official Language (use for official purposes of the Union) Rule, 1976, the Central Government hereby notifies the following offices of the General Insurance Corporation of India, under the Administrative control of Ministry of Finance, Department of Economic Affairs, where of more than 80 per cent of staff have acquired working knowledge of Hindi.

I. Name of the Company: The New India Assurance Co. Ltd.

1. Divisional Office, Belapur.
2. Divisional Office, Taddev.
3. Branch Office, Kalyan.
4. Branch Office, Chembur.

II. Name of the Company: The Oriental Insurance Co. Ltd.

1. Divisional Office, 19, New Delhi.
2. Divisional Office-20, New Delhi.
3. Divisions Office-2, Godgaon.
4. Divisional Office, Itanagar.

III. Name of the Company: National Insurance Co. Ltd.

1. Regional Office, Pune.
2. Divisional Office-I, Pune.
3. Branch Office, Latur.
4. Branch Office, Dhulia.
5. Branch Office, Mapusa, Goa.
6. Branch Office, Bicholin Goa.
7. Branch Office, Phonda, Goa.
8. Branch Office, Chirchward, Goa.

[No. 11013/4/94-HIC]

S. K. VERMA, Under Secy.

(राजस्व विभाग)

आदेश

नई दिल्ली, 4 अगस्त, 1995

का.ग्रा. 2232.—भारत सरकार के संयुक्त सचिव ने जिसे विदेशी मुद्रा संरक्षण और तस्करी निवारण अधिनियम, 1974 (1974 का 52) की धारा 3 की उपधारा के अधीन आदेश फा.सं. 673/111/94-सी.शु. 8 दिनांक 19-8-1994 को यह निदेश जारी किया था कि श्री के. रामदास शिनोय सपुत्र स्वर्गीय श्री के. नारायण शिनोय, मैसर्स किन्नोय इंटरनेशनल, बालमाता रोड, मंगलूर-575002 को निरुद्ध कर लिया जाए और केन्द्रीय कारागार, बंगलूर में अभिरक्षा में रखा जाए ताकि उसे भविष्य में माल की तस्करी के लिए वृत्ति करने से रोका जा सके।

2. केन्द्रीय सरकार के पास यह विश्वास करने का कारण है कि पूर्वोक्त व्यक्ति फरार हो गया है या अपने को छिपा रहा है जिससे उक्त आदेश का निष्पादन नहीं हो सके;

3. अतः अब केन्द्रीय सरकार, उक्त अधिनियम की धारा 7 की उपधारा (1) के खंड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निर्देश देती है कि पूर्वोक्त व्यक्ति इस आदेश के शासकीय राजपत्र में प्रकाशन के 7 दिन के भीतर पुलिस आयुक्त/डायरेक्टर जनरल पुलिस, बंगलूर के समक्ष हाजिर हों।

[फा. सं. 673/111/94-सी.शु.-8]

जमना दास, अवसर सचिव

(Department of Revenue)

ORDER

New Delhi, the 4th August, 1995

S.O. 2232.—Whereas the Joint Secretary to the Government of India, specially empowered under sub-section (1) of the Section 3 of the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (52 of 1974) issued order F. No. 673/111/94-CUS-VIII dated 19th August, 1994 under the said sub-section directing that Shri K. Ramdas Shenoy S/o Late K. Narayana Shenoy resident of M/s. Kennoy International Balmatta Road, Mangalore-575002 be

detained and kept in custody in the Central prison, Bangalore with a view to preventing him from abetting the smuggling of goods in future.

Whereas the Central Government has reasons to believe that the aforesaid person has absconded or is concealing himself so that the order can not be executed;

Now, therefore, in exercise of the powers conferred by clause (b) of sub-section 7 of the said Act, the Central Government hereby directs the aforesaid person to appear before the Commissioner of Police, Bangalore within 7 days of publication of this order in the official Gazette.

[F. No. 673/111/94-CUS-VIII]

JAMNA DASS, Under Secy.

आदेश

नई दिल्ली, 4 अगस्त, 1995

का.आ. 2233 भारत सरकार के संयुक्त सचिव ने जिसे विदेशी मुद्रा संरक्षण और तस्करी निवारण अधिनियम, 1974 (1974 का 52) की धारा 3 की उपधारा के अधीन आदेश फा.सं. 673/117/94-सी.शु. 8 दिनांक 19-8-1994 को यह निदेश जारी किया था कि श्री एम. गिरिधर, मनेजिंग पार्टनर, मैसर्स सविथा इंटर-प्राइजेज कस्टम हाउस एजेंट्स और सी एंड एफ एजेंट्स, नं. 1631/1, मार्टिन पेस रोड, लेडी हिल मंगलौर की निरुद्ध कर लिया जाए और केन्द्रीय कारागार, बंगलौर में अभिरक्षा में रखा जाए ताकि उसे माल की तस्करी के लिए दुष्प्रेरित करने से रोका जा सके।

2. केन्द्रीय सरकार के पास यह विश्वास करने का कारण है कि पूर्वोक्त व्यक्ति फरार हो गया है या अपन को छिपा रहा है जिससे उक्त आदेश का निष्पादन नहीं हो सके;

3. अतः अब केन्द्रीय सरकार, उक्त अधिनियम की धारा 7 की उपधारा (1) के खंड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निर्देश देती है कि पूर्वोक्त व्यक्ति इस आदेश के शासकीय राजपत्र में प्रकाशन के 7 दिन के भीतर पुलिस आयुक्त/डायरेक्टर जनरल पुलिस, बंगलौर के समक्ष हाजिर हो।

[फा. सं. 673/117/94-सी.शु. 8]

जमना दास, अवसर सचिव

ORDER

New Delhi, the 4th August, 1995

S.O. 2233.—Whereas the Joint Secretary to the Government of India, specially empowered under sub-section (1) of the Section 3 of the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (52 of 1974) issued order F. No. 673/117/94-CUS-VIII dated 19th August, 1994 under the said sub-section directing that Shri M. Giridhar Managing Partner, M/s. Savitha Enterprises, Customs House Agents and C&F Agents, No. 1631/1, Martin Pais Road, Lady Hill, Mangalore be detained and kept in custody in the Central prison, Bangalore with a view to preventing him from abetting the smuggling of goods in future.

Whereas the Central Government has reasons to believe that the aforesaid person has absconded or is concealing himself so that the order can not be executed;

Now, therefore, in exercise of the powers conferred by clause (b) of sub-section 7 of the said Act, the Central Government hereby directs the aforesaid person to appear before the Commissioner of Police, Bangalore within 7 days of publication of this order in the official Gazette.

[F. No. 673/117/94-CUS-VIII]

JAMNA DASS, Under Secy.

आदेश

नई दिल्ली, 4 अगस्त, 1995

का.आ. 2234.—भारत सरकार के संयुक्त सचिव ने जिसे विदेशी मुद्रा संरक्षण और तस्करी निवारण अधिनियम, 1974 (1974 का 52) की धारा 3 की उपधारा के अधीन आदेश फा. सं. 673/113/94-सी.शु. 8 दिनांक 19-8-1994 को यह निदेश जारी किया था कि श्री कृष्णानन्द शेट्टी सुपुत्र श्री वेंकप्पा शेट्टी, पियरीया मेंमन फ्लैट नं. 1 लेडी एवेन्यू रोड लालबाग, मंगलौर-575003 को निरुद्ध कर लिया जाए और केन्द्रीय कारागार, बंगलौर में अभिरक्षा में रखा जाए ताकि उसे भविष्य में माल की तस्करी के लिए दुष्प्रेरण करने से रोका जा सके;

केन्द्रीय सरकार के पास यह विश्वास करने का कारण है कि पूर्वोक्त व्यक्ति फरार हो गया है या अपन को छिपा रहा है जिससे उक्त आदेश का निष्पादन नहीं हो सके;

अतः अब केन्द्रीय सरकार, उक्त अधिनियम की धारा 7 की उपधारा (1) के खंड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निर्देश देती है कि पूर्वोक्त व्यक्ति इस आदेश के शासकीय राजपत्र में प्रकाशन के 7 दिन के भीतर पुलिस आयुक्त/डायरेक्टर जनरल पुलिस, बंगलौर के समक्ष हाजिर हो।

[फा.सं. 673/113/94-सी.शु.-8]

जमना दास, अवसर सचिव

ORDER

New Delhi, the 4th August, 1995

S.O. 2234.—Whereas the Joint Secretary to the Government of India, specially empowered under sub-section (1) of the Section 3 of the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (52 of 1974) issued order F. No. 673/113/94-CUS-VIII dated 19th August, 1994 under the said sub-section directing that Shri Krishnanand Shetty S/o Shri Venkappa Shetty resident of Pierira Mansion, Flat No. 1, Lady Avenue Road, Lalbagh, Mangalore-575003 be detained and kept in custody in the Central prison, Bangalore with a view to preventing him from abetting the smuggling of goods in future.

Whereas the Central Government has reasons to believe that the aforesaid person has absconded or is concealing himself so that the order can not be executed;

Now, therefore, in exercise of the powers conferred by clause (b) of sub-section 7 of the said Act, the Central Government hereby directs the aforesaid person to appear before the Commissioner of Police, Bangalore within 7 days of publication of this order in the official Gazette.

[F. No. 673/113/94-CUS-VIII]

JAMNA DASS, Under Secy.

(आर्थिक कार्य विभाग)

(बैंकिंग प्रभाग)

आदेश

नई दिल्ली, 8 अगस्त, 1995

का. आ. 2235 :—सरकार ने निर्णय लिया है कि वित्त मंत्रालय के सचिव (बैंकिंग) डा. वाई. वी. रेड्डी आई. ए. एस. (आन्ध्र प्रदेश : 64) को श्री सी. रामचन्द्रन के स्थान पर 8 अगस्त, 1995 से अगला आदेश जारी होने तक अपने कार्यभार के अतिरिक्त, समवर्ती रूप से राष्ट्रीय आवास बैंक के अध्यक्ष एवं प्रबंध निदेशक के पद का अतिरिक्त कार्यभार भी सम्भालेंगे।

[सं. 7/1/95-बी. ओ.-1]

के. के. मंगल, अवसर सचिव

(Department of Economic Affairs)

(Banking Division)

ORDER

New Delhi, the 8th August, 1995

S.O. 2235.—Government have decided that Dr. Y. V. Reddy, IAS (AP : 64) presently Secretary (Banking), Ministry of Finance, New Delhi will concurrently hold additional charge of the post of Chairman and Managing Director, National Housing Bank, in addition to his own duties, with effect from the 8th August, 1995 and until further orders vice Shri C. Ramachandran.

[F. No. 7/1/95-BO.I]

K. K. MANGAL, Under Secy.

नई दिल्ली, 8 अगस्त, 1995

का. आ. 2236 :—राष्ट्रीय आवास बैंक अधिनियम, 1987 (1987 का 53) की धारा 6 की उपधारा (1) के खण्ड (ड) के अनुसरण में, केन्द्रीय सरकार, भारतीय रिजर्व बैंक के साथ परामर्श करने के पश्चात्, एतद्वारा डा. वाई. वी. रेड्डी, आई. ए. एस. (आन्ध्र प्रदेश : 64), सचिव (बैंकिंग), वित्त मंत्रालय, नई दिल्ली को श्री सी. रामचन्द्रन के स्थान पर राष्ट्रीय आवास बैंक के निदेशक बोर्ड में निदेशक के रूप में नियुक्त करती है।

[सं. 9/9/94-बी. ओ. 1 (i)]

के. के. मंगल, अवसर सचिव

New Delhi, the 8th August, 1995

S.O. 2236.—In pursuance of clause (e) of sub-section (1) of section 6 of the National Housing Bank Act, 1987 (53 of 1987), the Central Government, in consultation with Reserve Bank of India, hereby appoints Dr. Y. V. Reddy, IAS (AP : 64), Secretary (Banking), Ministry of Finance, New Delhi as a Director on the Board of Directors of the National Housing Bank vice Shri C. Ramachandran.

[No. 9/9/94-BO.I(ii)]

K. K. MANGAL, Under Secy.

नई दिल्ली, 8 अगस्त, 1995

का. आ. 2237 :—भारतीय स्टेट बैंक अधिनियम, 1955 (1955 का 23) की धारा 19 के खण्ड (ड) के अनुसार, केन्द्रीय सरकार, एतद्वारा, वित्त मंत्रालय, नई दिल्ली के सचिव (बैंकिंग), डा. वाई. वी. रेड्डी, आई. ए. एस. (आन्ध्र प्रदेश 64) को भारतीय स्टेट बैंक के केन्द्रीय बोर्ड में निदेशक के रूप में नामित करती है।

[सं. एफ 9/9/94-बी. ओ. 1 (ii)]

के. के. मंगल, अवसर सचिव

New Delhi, the 8th August, 1995

S.O. 2237.—In terms of clause (e) of section 19 of the State Bank of India Act, 1955 (23 of 1955), the Central Government hereby nominates Dr. Y. V. Reddy, IAS (AP : 64), Secretary (Banking), Ministry of Finance, New Delhi as a Director on the Central Board of the State Bank of India.

[No. 9/9/94-BO.I(ii)]

K. K. MANGAL, Under Secy.

नई दिल्ली, 8 अगस्त, 1995

का. आ. 2238 :—भारतीय औद्योगिक विकास बैंक अधिनियम, 1964 (1964 का 18) की धारा 6 की उपधारा (1) के खण्ड (ग) के अनुसार, केन्द्रीय सरकार, एतद्वारा, वित्त मंत्रालय, नई दिल्ली के सचिव (बैंकिंग) डा. वाई. वी. रेड्डी, आई. ए. एस. (आन्ध्र प्रदेश : 64) को भारतीय औद्योगिक विकास बैंक के निदेशक बोर्ड में निदेशक के रूप में नामित करती है।

[एफ. सं. 9/9/94-बी. ओ. 1 (iii)]

के. के. मंगल, अवसर सचिव

New Delhi, the 8th August, 1995

S.O. 2238.—In terms of clause (c) of sub-section (1) of section 6 of the Industrial Development Bank of India Act, 1964 (18 of 1964), the Central Government hereby nominates Dr. Y. V. Reddy, IAS (AP : 64), Secretary (Banking), Ministry of Finance, New Delhi as a Director on the Board of Directors of Industrial Development Bank of India.

[No. 9/9/94-BO.I(ii)]

K. K. MANGAL, Under Secy.

नई दिल्ली, 8 अगस्त, 1995

का. आ. 2239 :—राष्ट्रीय कृषि और ग्रामीण विकास बैंक अधिनियम, 1981 (1981 का 61) की धारा 6 की उपधारा (1) के खण्ड (ड) के अनुसरण में, केन्द्रीय सरकार एतद्वारा वित्त मंत्रालय, नई दिल्ली में सचिव (बैंकिंग) डा. वाई. वी. रेड्डी, आई. ए. एस. (आन्ध्र प्रदेश : 64) को राष्ट्रीय कृषि और ग्रामीण विकास बैंक का निदेशक नियुक्त करती है।

[सं. एफ. 9/9/94-बी. ओ. 1 (iv)]

के. के. मंगल, अवसर सचिव

New Delhi, the 8th August, 1995

S.O. 2239.—In pursuance of clause (e) of sub-section (1) of Section 6 of the National Bank for Agriculture and Rural Development Act, 1981 (61 of 1981) the Central Government hereby appoints Dr. Y. V. Reddy, IAS (AP : 64), Secretary (Banking), Ministry of Finance, New Delhi as the Director of the National Bank for Agriculture and Rural Development.

[No. 9/9/94-BO.I(iv)]

K. K. MANGAL, Under Secy.

वाणिज्य मंत्रालय

नई दिल्ली, 28 जुलाई, 1995

का. आ. 2240:—केन्द्रीय सरकार, निर्यात (क्वालिटी नियंत्रण और निरीक्षण) अधिनियम, 1963 (1963 का 22) की धारा 7 की उपधारा (i) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उप निदेशक का कार्यालय, केमिकल एनालाईसिस गवर्नमेंट लेबोरेट्री, जोडा (उड़ीसा) को वाणिज्य मंत्रालय की अधिसूचना सं. का. आ. 3975 दिनांक 20-12-1965 से संवद्ध अधिसूचना में विनिर्दिष्ट आयरन और एण्ड मैंगनीज और (मैंगनीज डायक्साइड रहित) खनिज तथा अयस्क (ग्रुप-1) का जोडा (उड़ीसा) में निर्यात से पूर्व निरीक्षण करने के लिए एक अभिकरण के रूप में मान्यता प्रदान करती है, अर्थात्:—

- (1) उप निदेशक का कार्यालय केमिकल एनालाईसिस गवर्नमेंट लेबोरेट्री जोडा (उड़ीसा) खनिज तथा अयस्क (ग्रुप-1) के निर्यात (निरीक्षण) नियम, 1965 के नियम 4 के अन्तर्गत निरीक्षण का प्रमाण-पत्र देने के लिए अभिकरण द्वारा अयनाई गई पद्धति की जांच करने के लिए इस संबंध में निर्यात निरीक्षण परिपद द्वारा मनोनीत किसी भी अधिकारी को पर्याप्त सुविधाएं देगा।
- (2) उप निदेशक का कार्यालय केमिकल एनालाईसिस गवर्नमेंट लेबोरेट्री जोडा (उड़ीसा) इस अधिसूचना के अधीन अपने कृत्यों के पालन में निदेशक (निरीक्षण एवं क्वालिटी नियंत्रण) द्वारा समय-समय पर लिखित दिये गए सभी निर्देशों से बाध्य रहेंगे।

[फाइल सं. 5/29/94-ई. आई. एण्ड ई. पी.]

कुमारी सुमा सुब्बण्णा, निदेशक

MINISTRY OF COMMERCE

New Delhi, the 28th July, 1995

S.O. 2240.—In exercise of the powers conferred by sub-section (i) of Section 7 of the Export (Quality Control and Inspection) Act, 1963 (22 of 1963), the Central Government hereby recognises for a period of three years from the date of publication of this notification, the Office of the Deputy Director, Chemical Analysis Government Laboratory, Joda (Orissa), as an agency for the inspection of Iron Ore and Manganese Ore (Excluding Manganese Dioxide) Minerals and Ores (Group-I) notified in Ministry of Commerce No. S.O.

3975 dated 20-12-65 prior to export at Joda (Orissa) subject to the following conditions, namely:—

- (i) that the Office of the Deputy Director, Chemical Analysis, Government Laboratory, Joda (Orissa), shall give adequate facilities to the officers nominated by the Export Inspection Council in this behalf to examine the method of inspection followed by them in granting the certificate of inspection under rule 4 of Export of Minerals and Ore (Group-I) (Inspection) Rules, 1965.
- (ii) that the Office of the Deputy Director, Chemical Analysis, Government Laboratory, Joda (Orissa) in the performance of their function under this notification shall be bound by such directives as the Director (Inspection and Quality Control) may give in writing from time to time.

[F. No. 5/29/94-EI&EP]

KUM. SUMA SUBBANNA, Director

शहरी कार्य और रोजगार मंत्रालय

(संपदा निदेशालय)

नई दिल्ली, 29 जुलाई, 1995

का. आ. 2241:—केन्द्रीय सरकार, सरकारी स्थान (अप्राधिकृत अधिभोगियों की बेदखली) अधिनियम, 1971 (1971 का 40) की धारा 3 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, नीचे की सारणी (1) में उल्लिखित अधिकारी को, जो सरकार का एक राजपत्रिक अधिकारी है, उक्त अधिनियम के प्रयोजनों के लिए संपदा अधिकारी नियुक्त करती है, जो उक्त सारणी के स्तंभ (2) में विनिर्दिष्ट स्थानों की बाबत उक्त अधिनियम या उसके अधीन संपदा अधिकारी को प्रदत्त शक्तियों का प्रयोग करने और उस पर अधिरोपित कर्तव्यों का पालन करेगा।

सारणी

अधिकारी का नाम और पदनाम	सरकारी स्थानों के प्रवर्ग और अधिकारिता की स्थानीय सीमाएं
(1)	(2)
कार्यपालक इंजीनियर, (मुख्यालय), भोपाल केन्द्रीय सक्ति, केन्द्रीय शोक निर्माण विभाग, भोपाल।	भोपाल स्थित साधारण पूल के सभी निवास स्थान और भोपाल स्थित साधारण पूल से संबंधित कोई अन्य स्थान जिसके अन्तर्गत सरकार द्वारा साधारण पूल के लिए पट्टे पर लिए गए/अध्यपेक्षित भोपाल स्थित सरकारी स्थान भी हैं।

[फा. सं. 11013/1/92-नीति-4]

महेश प्ररोड़ा, संपदा उपनिदेशक

MINISTRY OF URBAN AFFAIRS &
EMPLOYMENT

Directorate of Estates

New Delhi, the 29th July, 1995

S.O. 2241—In exercise of the powers conferred by section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (40 of 1971), the Central Government hereby appoints the officer mentioned in Column (1) of the Table below, being a gazetted officer of Government, to be Estate Officer for the purposes of the said Act, who shall exercise the powers conferred and perform the duties imposed on Estate Officer by or under the said Act, in respect of the premises specified in column (2) of the said Table.

TABLE

Name and Designation of the officer	Categories of public premises and local limits of jurisdiction
1	2
Executive Engineer, (Headquarters) Bhopal Central Circle, Central Public Works Department, Bhopal.	All general pool residential accommodation at Bhopal and any other premises belonging to general pool at Bhopal including premises taken on lease/requisitioned by Government for general pool at Bhopal.

[F.No.11013/1/92-Pol.IV]

MAHESH ARORA, Dy. Director of Estates (Pol.)

CORRIGENDUM

New Delhi, the 29th July, 1995

S.O. 2242—In the English version of the notification of the Government of India in the Ministry of Urban Affairs & Employment (Dte. of Estates) No. S.O. 2679 dated 13-9-93, published at page 3822 of the Gazette of India, Part-II, Section

3(ii) dated 11-12-93, the following correction may be made:—

Reference	For	Read
In line-2 from below in Col. 2 of the Table	'Registered'	'requisitioned'

[F.No.21012/1/93-Pol.IV]

MAHESH ARORA, Dy. Director of Estates (P)

जल-भूतल परिवहन मंत्रालय

(सीमा सड़क विकास मंडल)

नई दिल्ली, 2 अगस्त, 1995

का. आ. 2243.—श्री एस एल राय, कार्यपालक अभियंता (सिविल) पर चल रही विभागीय जांच के उद्देश्य से केन्द्रीय सरकार की राय में सीमा सड़क संगठन के "ग्रेफ" के श्री सी एम पाटिल, कार्यपालक अभियंता (सिविल), (सेवानिवृत्त) को गवाह के रूप में सम्मन भेजना आवश्यक है।

इस प्रकार विभागीय जांच (गवाहों की उपस्थिति प्रवर्तन तथा कागजात प्रस्तुतीकरण) अधिनियम, 1972 (1972 का 18) की धारा 4 की उपधारा (1) में प्रदत्त शक्तियों का प्रयोग करने के लिए केन्द्रीय सरकार ने श्री राम प्रकाश, शौर्यचक्र अधीक्षक अभियंता (सिविल) एस जी और जांच अधिकारी को उक्त अधिनियम की धारा 5 में प्रदत्त शक्तियों का प्रयोग कर श्री सी एम पाटिल, कार्यपालक अभियंता (सिविल) को सेवानिवृत्ति के उपरांत उपरोक्त मामले में आवश्यक गवाह के रूप में बुलाये जाने के लिए जांच प्राधिकारी को उक्त शक्तियां प्राधिकृत की जाती हैं।

[सं. एफ-77 (7)/सीसविमं/93-स्था.]

डी. के. गुप्ता, अवर सचिव

MINISTRY OF SURFACE TRANSPORT

(Border Roads Development Board)

New Delhi, the 2nd August, 1995

S.O. 2243.—Whereas the Central Government is of the opinion that for the purpose of the departmental inquiry in relation to Shri S. L. Roy, Executive Engineer (Civil) of GREF of BRO, it is necessary to summon as witness Shri C. M. Patil, Executive Engineer (Civil) (Retired).

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 4 of the Departmental Inquiries (Enforcement of Attendance of Witnesses and Production of Documents) Act, 1972 (18 of 1972), the Central Government hereby authorise Shri Ram Prakash, Shaurya Chakra, S.E. (Civil) SG and Inquiry Officer, as the inquiring authority to exercise the power specified in Section 5 of the said

Act in relation to summon Shri C. M. Patil, EF (Civil) since retired from service as essential witness in the said case.

[No. F-77(7)/BRDB/93-Estt.]
D. K. GUPTA, Under Secy.

(नौवहन पक्ष)

नई दिल्ली, 2 अगस्त, 1995

का.आ. 2244.—केन्द्रीय दोषघर मलाहकार समिति (प्रक्रियात्मक) नियमावली, 1976 के नियम 3, 4 और 11 के साथ पठित दोषघर अधिनियम, 1927 (1927 का 17) की धारा 4 की उपधारा (1) के अनुसरण में केन्द्र सरकार एतद्वारा भारत सरकार, जल भूतल परिवहन मंत्रालय की दिनांक 24 मार्च, 1995 की अधिसूचना का.आ. सं. 877 में निम्नलिखित संशोधन करती है, अर्थात्:—

उक्त अधिसूचना में:—

- (i) क्रम सं. 5 के सामने की गई प्रविष्टि के स्थान पर निम्नलिखित प्रविष्टि प्रतिस्थापित की जाएगी, अर्थात्:—
5. श्री के. एम. खान, संसद सदस्य, राज्य सभा।
- (ii) क्रम सं. 6 के सामने की गई प्रविष्टि के स्थान पर निम्नलिखित प्रविष्टि प्रतिस्थापित की जाएगी, अर्थात्:—
6. श्री मुल्लापाल्ली रामचन्द्रन, संसद सदस्य, लोक सभा।
- (iii) क्रम सं. 13 के सामने की गई प्रविष्टि के स्थान पर निम्नलिखित प्रविष्टि प्रतिस्थापित की जाएगी, अर्थात्:—
13. कैप्टन ए.पी. शहाणे
हार्बर मास्टर,
ब्रम्हई पत्तन न्यास
[फा. सं. एल. एच.—11015/1/94-एम.एल.]
मुन्शी राम, अवर सचिव

(Shipping Wing)

New Delhi, the 2nd August, 1995

S.O. 2244.—In pursuance of Sub-section (i) of Section 4 of the Lighthouse Act, 1927 (No. 17 of 1927) read with rule 3, 4 and 11 of the Central Advisory Committee for Lighthouses (Procedural) Rules, 1976, the Central Government hereby makes the following amendments in the notification of the Government of India, in the Ministry of Surface Transport, S.O. No. 877 dated the 24th March, 1995, namely:—

In the said notification:—

- (i) Against Serial No. 5, for the entry, the following entry shall be substituted, namely:—
5. Shri K. M. Khan, Member of Parliament, Rajya Sabha.
- (ii) Against Serial No. 6, for the entry, the following entry shall be substituted, namely:—

6. Shri Mullappally Ramachandran, Member of Parliament, Lok Sabha.

(iii) Against Serial No. 13, for the entry, the following entry shall be substituted, namely:—

13. Capt. A. P. Shahane,
Harbour Master,
Bombay Port Trust.

[F. No. LH-11015/1/94-SL]

MUNSHI RAM, Under Secy.

श्रम मंत्रालय

नई दिल्ली, 24 जुलाई, 1995

का.आ. 2245.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बैंक ऑफ बड़ौदा के प्रबन्धतंत्र से संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में, केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-7-95 को प्राप्त हुआ था।

[संख्या एल-12012/395/89/डी (II) (ए)/आई.आर. (बी. 2)]
बी. के. शर्मा, डेस्क अधिकारी

MINISTRY OF LABOUR

New Delhi, the 24th July, 1995

S.O. 2245.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure in the industrial dispute between the employers in relation to the management of Bank of Baroda and their workmen, which was received by the Central Government on 24-7-1995.

[No. L-12012/395/89-D.II (A)/IR (B-II)]

V. K. SHARMA, Desk Officer

ANNEXURE

BEFORE SRI B. K. SRIVASTAVA PRESIDING OFFICER
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, PANDU NAGAR, KANPUR

Industrial Dispute No. 93 of 1990

Shri Harmangal Prasad,
State Asstt. General Secretary,
U.P. Bank Employees Union,
36/1, Kailash Mandir,
Kanpur.

AND

Regional Manager,
Bank of Baroda,
Regional Office,
118/330, Kaushalpuri,
Gumti No. 5,
Kanpur-208012.

AWARD

1. Central Government, Ministry of Labour vide its Notification No. L-12012/395/89-D.II (A) dated 4-4-1990, has referred the following dispute for adjudication to this Tribunal:—

Kya Bank of Baroda, Kanpur ke prabandhako dwara Sri Chand Accounts Clerk-cum-Typist ko Birhana Road Shakha se anya Shakha me sthananariat karke use telex operator ke karya samvaid se vanchit karna nyayochit avam hanik hai? Yadi nahi to sambandhit karmkar kis anuthosh ke haqdar hai?

2. The present case was taken up for hearing on 7-7-95 when it was fixed for workman's evidence but none appeared in the case, despite availing of sufficient opportunities. It is made clear that on 7-7-95, the case was adjourned to 7-7-95 in the presence of the authorised representative for the Union.

3. Since the case is of the year 1990 and is old one. As such the same cannot be allowed to be linger-on one pretext or the other.

4. From the above conduct of the Union/workmen it appears that they are least interested in prosecuting the case. Consequently concerned workman is held entitled to no relief for want of proof.

5. Reference is answered accordingly.

B. K. SRIVASTAVA, Presiding Officer
नई दिल्ली, 24 जुलाई, 1995

का.आ. 2246.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार यूनिन बैंक ऑफ इंडिया के प्रबन्धतंत्र के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निहित औद्योगिक विवाद में, केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-7-95 को प्राप्त हुआ था।

[संख्या एल-12012/146/85/डी-II (ए)/आई.आर. (बी. 2)]
बी. के. शर्मा, डेस्क अधिकारी

New Delhi, the 24th July, 1995

S.O. 2246.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure in the industrial dispute between the employers in relation to the management of Union Bank of India and their workmen, which was received by the Central Government on 24-7-1995.
[No. L-12012/146/85-D.II(A)/IR (B-II)]
V. K. SHARMA, Desk Officer

ANNEXURE

BEFORE SRI B. K. SRIVASTAVA PRESIDING OFFICER
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT PANDU NAGAR DEOKI PALACE
ROAD KANPUR

Industrial Dispute No. 5 of 1986
In the matter of dispute :

BETWEEN

The Assistant General Secretary,
U.P. Bank Employees Union
31/1 Kailash Mandir
Kanpur

AND

The Assistant General Manager
Union Bank of India
Hotel Clarks Awadh
8 M. G. Marg, Lucknow.

AWARD

1. Central Government, Ministry of Labour, vide its Notification No. L-12012/146/85-D.II (A) dated 20-12-85, has referred the following dispute for adjudication to this Tribunal :—

Whether the action of the management of Union Bank of India in denying the officiating duties of Special Assistant and Special Allowance to Sri J. N. Tewari Senior most clerk, Sarvodaya Nagar Branch, Kanpur for the period from 30th November, 1983 onwards is justified? If not, to what relief the workman is entitled to?

2. The case of the concerned workman J. N. Tewari is that he joined the services of Union Bank of India on 22-1-74. In the year 1982 he was transferred to Sarvodaya Nagar

Branch, Kanpur. There by virtue of length of service he became senior most clerk. On 22-10-75 an agreement had been taken place between the opposite party bank and All India Union Bank Employees Federation. On the basis of the above terms of settlement opposite party bank has been paying officiating allowance to other fellow workers as and when the senior most clerk was required to officiate in place of an officer Gr. II for a period of 7 days or more. The opposite party all of a sudden stopped paying this officiating allowance w.e.f. 30-11-83. The concerned workman was informed that it could not be paid without prior sanction from the Head Office. In this way this non-payment is discriminatory and is in utter breach of settlement.

3. The opposite party bank has filed written statement in which in the first place validity of reference has been questioned. Regarding interpretation of clause 7.2 of Agreement of the year 1975 it was conceded that the senior most official was entitled for this allowance if he had worked for 7 days or more. It is alleged that circular No. 2321 dated 16-6-81 was issued by the Head Office in which it was specifically pointed that officiating chance to senior most clerk and consequent officiating allowance is to be granted after obtaining prior permission of the concerned Zonal Head. It is alleged that since Zonal Head had not been granting such permission therefore, these special allowance was not paid.

4. The concerned workman has filed rejoinder in which facts alleged in the claim petition were reiterated, and new facts were denied.

5. As regards the validity of reference during the course of argument nothing was said as to how this reference is bad in law. On plain reading of pleadings and reference, I find no flaw in the reference. Hence, it is held to be good in law.

6. The next point is as to whether obtaining prior permission from Zonal Office before granting officiating allowance is necessary. The management has relied heavily on the staff circular No 2321 dated 16-6-81, the relevant portion of which is as under—

Further more in terms of Para 9.10 of the Bipartite Settlement dated 8th November 1973, Officiating Allowance for a workman other than Subordinate Staff. Since it is entirely at the Management's for officiating allowance only if he is officiating continuously for 7 days or more. In other words, if such an incumbent is required to officiate for less than 7 days in officer's Cadre, no officiating allowance is payable under the Bipartite Settlement. Despite this, it has been observed that at some of the branches whenever vacancy of an officer other than Head Shroff arises for less than 7 days, a member of the Award Staff is asked to officiate in his place and is paid officiating allowance. Such practice is highly irregular and not in accordance with the service regulations applicable to the Award Staff. Since it is entirely at the Management's discretion whether to allow or not officiating chances to workmen staff in clerical cadre for a vacancy in officer cadre (other than the Head Shroff), branches are hereby prohibited from giving officiating chances to members of the Award staff in vacancies caused in other officer cadre (except in Head Shroff vacancy). In cases, however, where it is absolutely essential to give such officiating chances, it should be done only after obtaining prior permission from the concerned Zonal Head. Any default in this regard shall be viewed seriously.

The authorised representative of bank has strenuously urged that from the above clarification it is obvious that obtaining of prior permission from the Zonal Office is must for granting officiating allowance. However, when we turn to para 7.2 of the Agreement of 1975 we find it rather impossible to accept the above clarification. Para 7.2 of this agreement is as under—

7.2 OFFICIATING IN HIGHER CADRE :

If an employee in the Clerical Cadre officiating in a post in Officer's Grade II Cadre for a period of 7 days or more, he will be entitled to Officiating Allowance for the period he officiates, provided, that such officiating arrangements, if any, will be

made from among the eligible employees at the Station on the basis of seniority inclusive of weightage, if any.

It no where says that prior permission of Zonal Head was necessary for granting officiating allowance to the Senior Most Clerk who had to work for 7 or more days work in place of an officer of Gr. II. It was a settlement between the parties. There is no ambiguity in this provision. Question of clarification arises when certain terms are ambiguous. In any case terms of the settlement which is ambiguous at all it is to be clarified by mutual settlement and not unilaterally by employer. Hence, as said earlier in the first place there was no ambiguity in para 7.2 of the settlement. In any case the circular No 2321 dated 16-6-81 could not alter the provisions of para 7.2 of the settlement unilaterally and that too to the prejudice of employees. Hence I came to the conclusion that circular No. 2321 of 81 will not in any way affect the provision of para 7.2 of the settlement. Consequently ignoring the effect of circular No. 2321 of 81 and keeping in mind provisions of para 7.2 of the settlement it is held that there was no need for obtaining prior permission of Zonal Office before allowing seniormost clerk to officiate in place of Gr. II Officer for seven days or more. As such on the basis of this clarification, the employees cannot be deprived of the abovementioned officiating allowance.

7. I have gone through the pleadings and evidence of concerned workman J. N. Tewari. There is no whisper of pleadings or evidence to show that J. N. Tewari has officiated in place of officer Grade II for 7 or more days in terms of para 7.2 of settlement of 1975 after 30-11-83. Thus in the absence of any pleading and proof it is held that the action of the management in denying officiating allowance to the concerned workman after 30-11-83 is not justified. As such no amount is being awarded in this regard. It will be open to the applicant to claim special allowance under Section 33C (2) of the Industrial Disputes Act, 1947 in case he has worked for 7 or more days in place of Officer Gr. II. However, it is specifically made clear that the action of the management in denying these officiating pay because of want of sanction from Zonal Head is not justified.

Dated : 18th July, 1995

Dated : 18th July, 1995

B. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 24 जुलाई, 1995

का.घा. 2247.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बैंक ऑफ बड़ोदा के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में, केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-7-95 को प्राप्त हुआ था।

[संख्या एल-12012/221/89डी II ए/आई.आर. (बी. 2)]

वी. के. शर्मा, डेस्क अधिकारी

New Delhi, the 24th July, 1995

S.O. 2247.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure in the industrial dispute between the employers in relation to the management of Bank of Baroda and their workmen, which was received by the Central Government on 24-7-1995.

[No. L-12012/221/89-D.II(A)/IR (B-II)]

V. K. SHARMA, Desk Officer

ANNEXURE

BEFORE SRI B. K. SRIVASTAVA, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, PANDU NAGAR, KANPUR
Industrial Dispute No. 88 of 1990

In the matter of dispute :

BETWEEN

General Secretary,

U.P. Bank Employees Union,
C/o Bank of Baroda 90/165, Dua Market, Itikharabad
Chamri Mandi, Kanpur.

AND

Regional Manager,
Bank of Baroda,
Lucknow Region,

19 Way Road, Lucknow.

AWARD

1. Central Government, Ministry of Labour, vide its Notification No. L-12012/221/89-D.II (A) dated 21-3-90 has referred the following dispute for adjudication to this Tribunal—

Whether the action of the management of Bank of Baroda, Lucknow was justified in terminating the services of Shri Jalaluddin S/o Shri Mohd. Jabir? If not, to what relief is the workman entitled?

2. The concerned Union raising the present industrial dispute was directed by the Tribunal to comply with the orders dated 2-7-93 by 7-7-1995 on 1-5-95 as last opportunity. On 7-7-95, when the case was taken up for hearing none turned up for the Union.

3. It appears that the concerned Union is not interested in contesting the claim for otherwise it must have complied with the orders of the Tribunal dated 2-7-93. Since the case is of 1990, and the same cannot be allowed to linger on one pretext or the other.

4. Therefore from the conduct of the Union it is held that it is not interested in prosecuting the case. Consequently, the concerned workman is entitled to no relief.

5. Reference is answered accordingly.

Dated : 18-7-1995

B. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 24 जुलाई, 1995

का.घा. 2248.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इलाहाबाद बैंक के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में, केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-7-95 को प्राप्त हुआ था।

[संख्या एल-12012/393/86/डी II ए/आई.आर. (बी. 2)]

वी. के. शर्मा, डेस्क अधिकारी

New Delhi, the 24th July, 1995

S.O. 2248.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure in the industrial dispute between the employers in relation to the management of Allahabad Bank and their workmen, which was received by the Central Government on 24-7-1995.

[No. L-12012/393/96-D.II (A)/IR (B-II)]

V. K. SHARMA, Desk Officer

ANNEXURE

BEFORE SRI B. K. SRIVASTAVA PRESIDING OFFICER
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, PANDU NAGAR, KANPUR

Industrial Dispute No. 83 of 1987

Shri Ashok Kumar Verma,
C/o Shri P. C. Bajpai,
990 Block 'Y',
Kidwai Nagar,
Kanpur.

AND

The Dy. General Manager,
Allahabad Bank,
Hazratganj,
Lucknow.

AWARD

1. Central Government, Ministry of Labour, vide its Notification No. L-12012/393/86-D.II (A) dated 15-7-87 has referred the following dispute for adjudication to this Tribunal :—

“Whether the action of the management of Allahabad Bank in relation to their Allahabad City Office Branch in terminating the services of Shri Ashok Kumar Verma w.e.f. 17-9-83 and not considering him for further employment while recruiting fresh hands under Section 25-H of the I. D. Act is justified? If not, to what relief the workman concerned is entitled?”

2. The authorised representative for the workman moved an application on 7-7-95 to the effect that the concerned workman has been taken into regular employment of the bank and has requested the Tribunal to treat the present matter as settled.

3. In view of the above submissions of the authorised representative for the concerned workman, the present reference is treated as settled and award in the case is given accordingly.

4. Reference is answered accordingly.

Dated : 18-7-1995

B. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 24 जुलाई, 1995

का.आ. 2249.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेंट्रल बैंक ऑफ इंडिया के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में, केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-7-95 को प्राप्त हुआ था।

[संख्या एल-12012/537/88/डी II ए/आई.आर. (बी. 2)]

वी. के. शर्मा, डेस्क अधिकारी

New Delhi, the 24th July, 1995

S.O. 2249.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure in the industrial dispute between the employers in relation to the management of Central Bank of India and their workmen, which was received by the Central Government on 24-7-1995.

[No. L-12012/537/88-D.II (A)/IR (B-II)]

V. K. SHARMA, Desk Officer

ANNEXURE

BEFORE SRI B. K. SRIVASTAVA PRESIDING OFFICER
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, PANDU NAGAR, KANPUR

Industrial Dispute No. 108 of 1989

S/Shri Anoop Kumar and Rajendra Narain,

C/o Shri V. N. Sekhari,
26/104 Birbana Road,
Kanpur-208001.

AND

Regional Manager,
Central Bank of India,
125, Civil Lines,
Etawah-207001.

AWARD

1. Central Government, Ministry of Labour, vide its Notification No. L-12012/537/88-D.II (A) dated 20-4-89, has referred the following dispute for adjudication to this Tribunal—

Whether the action of the management of Central Bank of India in terminating the services of S/ Shri Anoop Kumar and Rajendra Narain and not considering them for further employment while recruiting fresh hands under Section 25-H of the I. D. Act is justified? If not, to what relief are the concerned workmen entitled?

2. On 11-7-95, when the case was taken up for hearing concerned workmen Rajendra Narain made an endorsement to the effect that he had been engaged by the management of Central Bank of India as a peon and now he had no complaint against the bank.

3. With regard to other workman Anoop Kumar it reveals from the order sheet dated 1-6-92 that the Tribunal had already observed that he is not inclined to prosecute his case any more against the management.

4. In view of above the present reference is answered in respect of concerned workman Rajendra Kumar according to his endorsement made before the Tribunal on 11-7-95. In his case the present reference becomes infructuous. So far as workman Anoop Kumar is concerned it is held that he is entitled to no relief for want of evidence and proof.

5. Reference is answered accordingly.

Dated : 12-7-1995

B. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 24 जुलाई, 1995

का.आ. 2250.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बैंक ऑफ बड़ौदा के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में, केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-7-95 को प्राप्त हुआ था।

[संख्या एल-12012/26/86/डी II ए/आई.आर. (बी. 2)]

वी. के. शर्मा, डेस्क अधिकारी

New Delhi, the 24th July, 1995

S.O. 2250.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure in the industrial dispute between the employers in relation to the management of Bank of Baroda and their workmen, which was received by the Central Government on 24-7-1995.

[No. L-12012/26/86-D.II(A)/IR (B-II)]

V. K. SHARMA, Desk Officer

ANNEXURE

BEFORE SRI B. K. SRIVASTAVA PRESIDING OFFICER
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT PANDU NAGAR, KANPUR

Industrial Dispute No. 119 of 1986

In the matter of dispute :

BETWEEN

The General Secretary,

U.P. Bank of Baroda Employees Union,
C/o Bank of Baroda, Latouche Road Branch,
Kanpur.

AND

The Regional Manager,
Bank of Baroda,
Kanpur.

Gumti No. 5 Kanpur.

AWARD

1. Central Government, Ministry of Labour, vide its Notification No. L-12012/26/86-D.II (A) dated 20-10-86, has referred the following dispute for adjudication to this Tribunal—

Whether the action of the management of Bank of Baroda in relation to their Derapur Branch, Kanpur, in terminating the services of Sri Mahesh Prasad w.e.f. 28-12-88 is justified? If not, to what relief is the workman entitled?

2. The case of the workman was taken up for evidence on 18-7-95, when the authorised representative moved an application before the Tribunal informing that the concerned workman Mahesh Prasad has been given appointment in the bank and as such workman is not inclined to contest the present reference. He has also requested that the present reference be treated as withdrawn.

3. In view of the statement made above through application dated 18-7-95 of the concerned workman, the present reference has become infructuous.

4. Reference is answered accordingly.

Dated : 19-7-1995.

B. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 24 जुलाई, 1995

का.आ. 2251.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार केन्द्रीय तार घर के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-7-95 को प्राप्त हुआ था।

[संख्या एल-40012/51/92-आई.आर. (जी यू.)]
के. वी. बो. उन्नी, डेस्क अधिकारी

New Delhi, the 24th July, 1995

S.O. 2251.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Kendriya Tar Ghar and their workmen, which was received by the Central Government on 24-7-1995.

[No. L-40012/51/92-IR (DU)]
K. V. B. UNNY, Desk Officer

ANNEXURE

BEFORE SRI B. K. SRIVASTAVA PRESIDING OFFICER
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT PANDU NAGAR, KANPUR

Industrial Dispute No. 89/1992

Shri Ramesh Kumar S/o Shri Kanhaiya Lal,
201/193, Ram Rai Ki Saray,
Jajmau,
Kanpur-208010.

AND

Mandaliya Abhiyanta (Samaksh Anurakshan),
Kendriya Tar Ghar, Compound,
Kanpur-208001.

AWARD

1. Central Government, Ministry of Labour, vide its Notification No. L-40012/51/92-IR (DU) dated 16-7-92, has referred the following dispute for adjudication to this Tribunal :—

Kya Mandaliya Abhiyanta Kanpur dwar Sri Ramesh Kumar Driver ko dinank 1-9-87 se nishkasit karna nyoyochit hai? Yadi nahi to sambandhit karmkar kis anutosh ka haqdar hai?

2. The instant is lingering on w.e.f. 16-9-92 for/want of statement of claim on behalf of the concerned workman failed to file the same despite availing of sufficient opportunities for the purpose. Since the case is old one and the same cannot be allowed to proceed in this way any more.

3. From the conduct of the concerned workman it stands clear that the workman is not inclined to contest the present reference. Consequently it is held that the concerned workman is entitled to no relief for want of pleading. Reference is answered accordingly.

Dated : 18-7-1995.

B. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 24 जुलाई, 1995

का.आ. 2252.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेंट्रल रेलवे, जबलपुर के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-7-95 को प्राप्त हुआ था।

[संख्या एल-41012/73/88-डी II वो/आई.आर. (बी. 1)]

पी. जे. माईकल, डेस्क अधिकारी

New Delhi, the 24th July, 1995

S.O. 2252.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure in the industrial dispute between the employers in relation to the management of Central Railway, Jabalpur and their workmen, which was received by the Central Government on 24-7-1995.

[No. L-41012/73/88-IR (B-D)]
P. J. MICHEL, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, JABALPUR (MP)

Case Ref. No. CGIT/LC(R)(134)/1989

BETWEEN

Shri Raj Kumar S/o Shri Ramsujan Gupta, House No.
208/11, Gupta Colony, Behind Idgah, Lohiapur,
Gorhaphatak, Jabalpur (MP).

AND

The Divisional Railway Manager, Central Railway,
Jabalpur (MP).

PRESIDED IN :

By Shri Arvind Kumar Awasthy.

APPEARANCES :

For Workman—Shri L. N. Namdeo, Advocate.

For Management—Shri S. K. Mishra, Advocate.

INDUSTRY : Railway DISTRICT : Jabalpur (MP)

AWARD

Dated, the 14th July, 1995

This is a reference made by the Central Government, Ministry of Labour, vide its Notification No. L-41012/73/88-D.II (B) dated 19th July, 1989, for adjudication of the following industrial dispute :—

SCHEDULE

“क्या सेंट्रल रेलवे, जबलपुर (म.प्र.) के प्रबंधकों द्वारा श्री राजकुमार आत्मज, श्री रामसुजान गुप्ता, श्रमिक को सेवाएं दिनांक 19-9-87 से समाप्त करने की कार्यवाही न्यायोचित है। यदि नहीं, तो संबंधित कर्मकार किस अनुतोष का हकदार है.” ।

2. Admitted facts of the case are that the workman, Shri Raj Kumar Gupta, was employed as a casual labour by the management and the workman has worked as daily rate casual worker and thereafter as monthly rated casual labour. It is also a admitted fact that the workman has attained the status of temporary Government Servant and he was found medically fit for Category B-1. It is also the common ground that the original service record of the workman was torn and was in dilapidated condition; that the management issued duplicate service card to the workman on 28-11-1985.

3. The case of the workman is that he was employed as casual labour on 3-5-1977 by the Divisional Railway Manager, Central Railway, Jabalpur and he has worked under PW-1, till 18-12-1981; that thereafter he was sent to Sagar, Satna, Manikpur, Khurai, Damoh, Katni on various dates and he has worked under the PW-1 from 19-12-81 to 19-7-87. The service of the workman was abruptly terminated; that the workman has attained the status of a temporary government servant and as such termination without enquiry is illegal. Workman has prayed for the reinstatement with back wages.

4. The case of the management is that the workman has worked as monthly rated casual labour upto 18-9-87 and thereafter he was absent and has not turned up on duty. The management has denied that the workman has got the status of temporary employee. The management has alleged that the chargesheet was issued against the workman for remaining absent unauthorisedly. The management has prayed that the workman is not entitled for reinstatement.

5. Terms of reference are made the issue in the case.

6. Workman has examined himself and the management has examined Shri Nasiruddin Khan (MW-1).

7. Workman, Shri Raj Kumar Gupta, has stated that he was appointed as a casual labour by the Railway on 3-5-77

and since then he has worked under the PW-1 upto 1987; that the services of the workman was abruptly terminated without enquiry.

8. The witness of the management, Nasipuddin Khan, has also admitted that the workman was employed as to casual labour under the Railway till 1987.

9. This point has rightly not dispute by the management that the workman has worked for more than 240 days and by virtue of his continuous employment for more than 240 days he has become entitled for temporary status. The conditions of service of the railway that such casual labour who got the temporary status would be entitled to all the rights and privileges of temporary railway servant. It is an admitted fact that the Provident Fund and other deductions was made from the salary of the workman. Consequently, Railway Establishment Manual Rules 2501 and 2505 are applicable and the workman has acquired the status of temporary railway servant. This position is further established from the principles laid down by the Hon'ble Supreme Court in case reported in AIR 1982 SC 854. It is held in case of L. Robert D'Souza Vs. The Executive Engineer, S.E. Railway and another (AIR 1982 SC p. 854) that striking off the name of the workman from rolls for any reason amounts to retrenchment except by way of punishment to disciplinary action or voluntary retirement or superannuation or on the ground of continuous ill health. It is observed in case of Rajesh Kumar Vs. State of M.P. (1993 MPLJ p. 133) that such termination is retrenchment and compliance of Section 25-F is necessary. It is admitted that no retrenchment compensation or notice was given to the workman. Consequently, the termination of the workman from service is illegal. Management has also admitted that the workman was entitled to remain in service. Case of the management is that on account of the unauthorised absenteeism the chargesheet was issued against the workman. Workman has not turned up on his own accord and his services were not terminated. Nasiruddin Khan, MW-1 has stated that the workman was not discharged or terminated from the service and the copy of the chargesheet was served on the workman. D.E. against the workman has not completed. Consequently, from the written statement and the statement of Nasiruddin Khan, it is clear that the railway has not terminated the service of the workman. The punishment of dismissal from service or any other punishment will be given after completion of the domestic enquiry.

10. From the aforesaid discussions, it is clear that till the completion of the domestic enquiry the workman is entitled to remain in service. The workman, Raj Khmar Gupta has admitted in his cross-examination that after the alleged termination of service he is doing the casual work. Workman is in employment after the alleged termination. Consequently, the workman is not entitled for any back wages.

11. In this case an anomaly is evident that according to the workman he was not allowed to resume the duty while the case of the management is that service of the workman was not terminated.

12. Consequently, it is ordered that the workman, Shri Raj Kumar Gupta, be allowed to resume his duties from the date of publication of the award. The observation and direction in this reference will not in any way effect the proceedings and finding thereon of departmental enquiry regarding the absentacism started by the management against the workman. The reference is answered accordingly. The

workman will not be entitled for any back wages and other relief, whatsoever. Parties to bear their own costs.

ARVIND KUMAR AWASTHY, Presiding Officer

नई दिल्ली, 25 जुलाई, 1995

का.आ. 2253.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार रेल मेल सर्विस के प्रबंधन के संबंध निर्यातकों और उनके कर्मचारों के बीच, अनुबंध में निश्चित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-7-95 को प्राप्त हुआ था।

[संख्या एल-40012/28/87-डीII (बी)]

के.वी.बी. उन्नी, डेस्क अधिकारी

New Delhi, the 25th July, 1995

S.O. 2253. — In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Rail Mail Service and their workmen, which was received by the Central Government on 24-7-1995.

[No. L-40012/28/87-D.II (B)]

K. V. B. UNNY, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR (MP)

Case Ref. No. CGIT/LC(R)(73)/1989

BETWEEN

Shri Rajesh Chotelal Tambe, S.F.S. High School, Sadar, Nagpur (MS).

AND

The Supdt., Rail Mail Service, Staff Chambers, Nagpur (MS)-440001.

PRESIDED IN :

By Shri Arvind Kumar Awasthy.

APPEARANCES :

For Workman—None.

For Management—Shri R. S. Sunderam.

INDUSTRY : RMS.

DISTRICT : Nagpur (MS).

AWARD

Jabalpur, the 14th July, 1995

This is a reference made by the Central Government, Ministry of Labour, vide its Notification No. L-40012/28/87-D.II (B) dated 7-3-1989, for adjudication of the following industrial dispute :—

SCHEDULE

“क्या रेल मेल सर्विस, नागपुर के प्रबंधन की अंश कालिक सफाईवाले श्री राजेश छोटेलाल तम्बे की 21-1-86 से सेवाएं समाप्त करने कार्रवाई न्यायोचित है।” यदि नहीं, तो वह किस अनुतोष का हकदार है और किस तारीख से।”

2. Reference was received on 27-3-89. Since then the workman has not filed the statement of claim. The workman made the appearance on two hearings about five years back in the year 1989 and after that the workman did not turn up although notice for appearance was served.

3. Management prays to close the case. As it is clear

that the workman is not interested in persuing the matter, no dispute award is hereby passed. No order as to costs.

ARVIND KUMAR AWASTHY, Presiding Officer

नई दिल्ली, 25 जुलाई, 1995

का.आ. 2254.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पोस्ट आफिस के प्रबंधन के संबंध निर्यातकों और उनके कर्मचारों के बीच, अनुबंध में निश्चित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-7-95 को प्राप्त हुआ था।

[संख्या एल-40012/63/90-आईआर(डीयू)]

के.वी.बी. उन्नी, डेस्क अधिकारी

New Delhi, the 25th July, 1995

S.O. 2254. — In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure in the industrial dispute between the employers in relation to the management of Post Office and their workmen, which was received by the Central Government on 24-7-1995.

[No. L-40012/63/90-IR (DU)]

K. V. B. UNNY, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR (MP)

Case Ref. No. CGIT/LC(R)(16)/1991

BETWEEN

Shri Luxmanrao Lanjeswar, E.D. Stamp Vendor, represented through the Working President, All India Posts and Telegraphs Employees Federation, Nagpur (MS)-440024.

AND

The Assistant Supdt. of Post Offices, Indore City Sub-division, Indore (MP).

PRESIDED IN :

By Shri Arvind Kumar Awasthy.

APPEARANCES :

For Workman—None.

For Management—None.

INDUSTRY : P & T

DISTRICT : Nagpur (MS)

AWARD

Jabalpur, the 14th July, 1995

This is a reference made by the Central Government, Ministry of Labour, vide its Notification No. L-40012/63/90-IR (DU) dated 4-2-1991, for adjudication of the following industrial dispute :—

SCHEDULE

“Whether the action of the management of Sr. Supdt. of Post Offices, Indore in terminating the services of Shri Rajendra Laxmanrao Lanjeswar, E.D. Stamp Vendor w.e.f. 24-7-85 is justified? If not, to what relief the concerned workman is entitled to?”

2. The statement of claim was filed by the workman on 14-3-1991 and thereafter the management has filed the written statement. The workman or his representative never

appeared. Repeated notices were sent to the workman and the management for filing the documents in respect of their claim. But in last four years none appeared for the parties and an effort was made by the parties to prove their case. It appears that the parties are not interested in pursuing the reference. Consequently, no dispute award is passed. No order as to costs.

ARVIND KUMAR AWASTHY, Presiding Officer

नई दिल्ली, 25 जुलाई, 1995

का.आ. 2255.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूरसंचार के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नई दिल्ली के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 24 जुलाई, 1995 को प्राप्त हुआ था।

[संख्या एल-40012/144/92-आईआर(डीयू)]
के.वी.बी. उन्नी, डेस्क अधिकारी

New Delhi, the 25th July, 1995

S.O. 2255.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, New Delhi as shown in the Annexure, in the Industrial dispute between the employers in relation to the management of Telecommunication and their workmen, which was received by the Central Government on 14-7-95.

[No. L-40012/144/92-IR(DU)]

K. V. B. UNNY, Desk Officer

ANNEXURE

BEFORE SHRI GANPATI SHARMA, PRESIDING
OFFICER, CENTRAL GOVT. INDUSTRIAL
TRIBUNAL, NEW DELHI

I.D. No. 8/94

In the matter of dispute between :

Shri Mukhesh Kumar s/o. Shri Kali Ram, 50/1, Bhandari
Bagh, Dehradun-248001.

Versus

1. Secretary, Ministry of Telecommunication Deptt., Government of India, Sanchar Bhawan, New Delhi.
2. District Engineer Telecom, Dehradun, 56 Subhash Marg, Dehradun.
3. Sub Divisional Officer Telegraph, Dehradun Sub Division, Basant Vihar, Dehradun.

APPEARANCES :

None—for the workman.

Shri M. S. Gosain—for the management.

AWARD

The Central Government in the Ministry of Labour vide its Order No. L-40012/144/92-IR(DU) dated 11-1-94 has referred the following industrial dispute to this Tribunal for adjudication :

“क्या दूर संचार उपमंडलीय अधिकारी (तार) देहरादून द्वारा श्री मुकेश कुमार, दैनिक मजदूर को दिनांक 24-7-87 से नौकरी से निष्कासन एवं उसको डिपार्टमेंट आफ टेली-

कम्यूनिकेशन की 1989 की स्कीम के अंतर्गत “ग्रैंड ऑफ अम्पॉरैरी स्टेटम एवं रैगुलरिजेशन” स्कीम के अंतर्गत अनुतोप न दिया जाना वैध एवं उचित है यदि, नहीं तो कर्मकार किस अनुतोप का अधिकारी है।”

2. Notice was sent and the workman appeared and filed statement of claim on 30-5-94. On 12-9-94 the workman did not appear and notice was ordered to be issued when on 28-10-94 workman again appeared and filed rejoinder to the written statement filed by the management. Thereafter the workman did not appear on 3-1-1995, 9-2-1995, 20-3-95 and 2-5-95. Again registered notice was sent but he did not again appear on 4-7-1995 and was proceeded against ex-parte.

3. The Management representative M. S. Gosain, Telephone Inspector made statement that since the workman has been proceeded ex parte they do not want to lead any evidence.

4. In view of this situation it appears that there exists no dispute in this case and I, therefore, pass a No dispute award in this case leaving the parties to bear their own costs.

GANPATI SHARMA, Presiding Officer

7th July, 1995.

नई दिल्ली, 25 जुलाई, 1995

का.आ. 2256.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार आर्डिनेंस फैक्ट्री के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-7-95 को प्राप्त हुआ था।

[संख्या एल-14012/24/92-आईआर(डीयू)]

के.वी.बी. उन्नी, डेस्क अधिकारी

New Delhi, the 25th July, 1995

S.O. 2256.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Jabalpur as shown in the Annexure, in the Industrial dispute between the employers in relation to the management of Ordnance Factory and their workmen, which was received by the Central Government on 24-7-95.

[No. L-14012/24/92-IR (DU)]

K. V. B. UNNY, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT,
JABALPUR (MP)

Case Ref. No. CGIT/LC(R)(205)/1993

BETWEEN

Shri R. K. Mishra, Ex-LDC, House No. 509/1, Shanti Nagar, Vehicle Factory Road, Ranjhi, Gokulpur Ward, P.O. Ranjhi, Jabalpur (MP)-482001.

AND

The General Manager, Ordnance Factory, Khamaria, Jabalpur (M.P.)-482 001.

PRECEDED IN : By Shri Arvind Kumar Awasthy.

APPEARANCES :

For Workman.—Shri A. K. Shashi, Advocate.

For Management.—Shri D. Da'Silva, Advocate.

INDUSTRY: Ordnance Factory DISTRICT: Jabalpur (MP).

AWARD

Dated, July 11, 1995

This is a reference made by the Central Government, Ministry of Labour, vide its Notification No. L-14012/24/92-IR(DU) dated 30-9-1993, for adjudication of the following industrial dispute :—

SCHEDULE

"Whether the action of the management of Ordnance Factory, Khamaria, Jabalpur (MP) in terminating the services of Shri R. K. Mishra, Ex-LDC w.e.f. 18-5-91 is justified? If not, what relief he is entitled to?"

2. Admitted facts of the case are that Shri R. K. Mishra was a workman and he was working as L.D.C. in the Ordnance Factory, Khamaria; that a charge-sheet dated 28-4-90 was issued against the workman on the ground that the workman assaulted and misbehaved on 19-4-90 at about 10.30 p.m. Shri Kamla Prasad, Tractor Driver of the Ordnance Factory, Khamaria.

3. The case of the management is that on 19-4-90 at about 10.30 p.m. workman abused, threatened and assaulted Shri Kamla Prasad, Tractor Driver that Shri Chandra Shekhar, Deputy General Manager, was appointed as the Enquiry Officer and the Enquiry Officer held that the allegation of assault were not proved. The Disciplinary Authority disagreeing with the findings of the Enquiry Officer imposed the punishment of dismissal from service vide order dated 18-5-1991. Management has alleged that the workman committed the gross misconduct by assaulting the Tractor Driver of the Ordnance Factory Khamaria and his barbarian act was of unbecoming of a Government Servant and his dismissal is in according with the misconduct of the workman.

4. The case of the workman is that false and frivolous charge of assault was levelled against him and there was no evidence in the domestic enquiry to hold the workman guilty; that the Enquiry Officer gave the finding in favour of the workman; the Disciplinary Authority without properly appreciating the evidence disagreed with the findings of the Enquiry Officer. The workman has alleged that the punishment of dismissal is highly improper and the finding of the Disciplinary Authority is perverse and punishment is highly disproportionate to the so called misconduct committed by the workman. The workman has further alleged that the said incident has no bearing with the working of the workman because the offence was alleged to have been committed was not in the premises or vicinity of the establishment and it is not connected with the employment of the workman. It is further alleged that the employer does not have extraordinary power to regulate the behaviour of the employee after his duty hours. The workman has prayed for the reinstatement. However, during the final arguments the workman has given up the prayer for back wages.

5. Following are the issues framed in the case :

ISSUES

1. Whether the enquiry is just, proper and legal?
2. Whether the management is entitled to lead evidence before this Tribunal?
3. Whether the charges of misconduct are proved on the facts of the case?
4. Whether the punishment is proper and legal?
5. Relief and costs?

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6. Issue No. 1.—The domestic enquiry was held just, proper and legal. Consequently, Issue No. 1 is answered in favour of the management.

7. Issue No. 3.—Shri Kamal Prasad has stated that on 3-11-90 in the domestic enquiry Shri R. K. Mishra asked him to take the water tanker to his place and when he refused Shri R. K. Mishra abused him and slapped. There is nothing in the cross-examination of Shri Kamal Prasad to doubt the veracity of his statement. No reason whatsoever exist to hold that Shri Kamal Prasad is in any way interested in giving false evidence against the workman. Shri Kamal Prasad has immediately reported against Shri Mishra to the higher authorities. From the statement of Shri S. P. Koli and other witnesses examined during the domestic enquiry, it is clear that at the relevant time at 11 p.m. Shri Kamal Prasad, Tractor Driver, complained that Shri Mishra has abused and manhandled him. Thus the unblemished statement of Shri Kamal Prasad is corroborated by his conduct just after the incident. In these circumstances, the learned Disciplinary Authority has rightly concluded that the charges against Shri R. K. Mishra of manhandling Shri Kamal Prasad are fully proved. Thus I hold that the finding of the learned Disciplinary Authority that the charges are proved, is just and proper. Issue No. 3 is answered in favour of the management.

8. Issue No. 4: The workman, Shri R. K. Mishra, has abused and gave two slaps to the Water Tanker Driver due to his refusal to take the water tanker to his place for the supply of water. This unfortunate incident has taken place due to shortage of water in the month of April. The workman has assaulted on account of sudden provocation and the offence was not planned nor excessive force was used by the workman. It cannot be said that the workman has a criminal type of mind. It is not alleged that the workman has blameworthy past record or he was in enmity with the Tractor Driver, Shri Kamal Prasad. Consequently, the punishment of dismissal from the service appears to be excessive.

9. It is observed in case of Ramakant Mishra Vs. State of U.P. AIR 1982 SC 1552=1983 SCC (L&S) p. 26 that the facts and circumstances of the case must justify dismissal and the dismissal of the workman for abusing, threatening to his superior officer only once in the course of long-unblemished service held disproportionately excessive. It is observed in the case of L. Michael Vs. Johnson Pumps India AIR 1975 SC 661 at para 13 that security of employment is the first requisite of workers life. The extreme penalty of dismissal from service should be imposed in appropriate cases and the approach of the management should be the approach of parent made towards erring misguided child. The penalty has to commensurate to the magnitude of the fault. The workman was dismissed from service in the year 1991 and for more than four years he is out of the job. The workman is not claiming the back wages. The fact that the workman lost wages of more than four years for abusing and giving two slaps to the Driver of the Water Tanker, is more than sufficient punishment to the workman.

10. The incident has not taken place in the office premises, for it has little bearing with the official duties of the workman. The assault by the workman has not created any administrative problems to the management. Such stray incident by the workman does not call for extreme penalty of dismissal from service. Consequently, I am of the considered opinion that to deprive the workman from his four years salary for the period in which he remained dismissed is more than sufficient punishment. Workman richly deserves reinstatement without back wages. Consequently, I hold that the punishment of dismissal awarded to the workman was not proper and proportionate to his misconduct. Issue No. 4 is answered accordingly in favour of the workman.

11. Issue No. 5: Consequently it is ordered that the workman be reinstated in service from the date of publication of award. The workman is not entitled for the back wages or any other, consequential relief whatsoever. Parties to bear their own costs.

ARVIND KUMAR AWASTHY, Presiding Officer

नई दिल्ली, 25 जुलाई, 1995

का.अ. 2257. औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुमर्ण में, केन्द्रीय सरकार भारतीय खाद्य निगम के प्रबन्धन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 24 जुलाई, 1995 को प्राप्त हुआ था।

[संख्या एल-42012/1/88-डी-III(बी)]

बी. एम. डेविड, डेस्क अधिकारी

New Delhi, the 25th July, 1995

S.O. 2257.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Central Warehousing Corporation and their workmen, which has received by the Central Government on the 24-7-1995.

[No. L-42012/1/88-D.III(B)]

B. M. DAVID, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-1 ABOUR COURT, JABALPUR (MP)

Case Ref. No. CGIT/LC(R)(34)/1989

BETWEEN

Shri Chulbul Dass Khosle, Village and P.O. Byga Kapa, Tahsil Lormi, District Bilaspur (MP).

AND

The Regional Manager, Central Warehousing Corporation, 52-53 Amar Niwas, New Market, T. T. Nagar, Bhopal (MP)-462003.

PRESIDED IN: By Shri Arvind Kumar Awasthy.

APPEARANCES:

For Workman: Shri Prabhakar Singh, Advocate.

For Management: Shri A. K. Shasi, Advocate.

INDUSTRY: Warehousing. DISTRICT: Bhopal (MP).

AWARD

Dated July 11 1995

This is a reference made by the Central Government, Ministry of Labour, vide its Notification No. L-42012/1/88-D.III(B) dated 6th February, 1989, for adjudication of the following industrial dispute:

SCHEDULE

"Whether the action of the management of Central Warehousing Corporation, Regional Office, Bhopal in terminating the services of Shri Chulbul Dass Khosle, WA-II, w.e.f. 30-1-88 is justified. If not, what relief is the workman entitled to?"

2. Admitted facts of the case are that the applicant, Shri Chulbul Dass, was initially appointed on 16th May, 1986 on daily wages as Warehouse Assistant Gr. II on the rate fixed by the Collector for the period of three months;

that the term of appointment of the workman was further extended for three months and the service of the workman were terminated on 31st January, 1987. It is also admitted that the workman was again appointed on the same post and joined as daily rated employee on 4th February, 1987; that the management conducted typing test and written test and the workman failed to qualify in the test. It is also common ground that the services of the workman were again terminated w.e.f. 31st January, 1988.

3. The case of the workman is that the management has illegally terminated his service w.e.f. 30th January, 1988; that the condition in appointment letter was not to the effect that the workman will have to qualify the typing test and as such his services were wrongly terminated w.e.f. 20th January, 1988. The prayer of the workman is that the order of termination of service of the workman on the ground that he has failed to pass the typing test is not in accordance with the terms and conditions of service of the workman; that he was illegally terminated and as such the workman is entitled for reinstatement with back wages.

4. The case of the management is that the workman was initially appointed on daily wages for the period of only three months and thereafter his services were extended upto 31st December, 1987; that during his period of work, his work was found highly unsatisfactory and his services were discontinued w.e.f. 1st January, 1987. The management has further alleged that on compassionate and humanitarian ground the workman was again appointed as daily wages employee and he had joined on 4th February, 1987; that the condition of his continuance in service was that he will have to qualify the written and typing test; that the workman inspite of repeated opportunity failed to clear the typing test and ultimately he was removed from service with effect from 30th January, 1988. The case of the management is that the appointment of the workman was on daily wages and his services were terminated in accordance with the terms and conditions of the appointment.

5. Terms of reference are the issue in the case

6. Workman examined himself and the management has examined Shri J. B. Bhatti.

7. Workman has admitted in para 1 of his cross-examination that he was initially appointed on 16th May, 1986 for the period of three months vide appointment letter Ex. M/2.

8. From the perusal of the office Order Ex. M/2 dated 5th June, 1986, it is clear that Shri Chulbul Dass was appointed on daily wage basis for a limited period of three months. Consequently, it is clear that at the initial stage the appointment of the workman was for a limited period on daily wages simpliciter. Consequently, by the efflux of time the service of the workman was rightly terminated. The workman who was on daily wages employee for a limited time vide Ex. M/2 has no right to claim for the regularisation of his service and his termination was justified.

9. The workman was twice appointed and the case of the appointment and termination of the workman is in two phase. I have already dealt with the first termination of the appointment of the workman vide Ex. M/2 and held that vide Ex. M/2 dated 5th June, 1986 the workman is not entitled to challenge his termination. However, on second time, the workman was appointed on the compassionate ground by order of the management Ex. M/6 dated 20th January, 1987. The condition of the second appointment of the workman was that he will have to pass the written/typing test held on the stipulated dates vide Ex. M/8. From the perusal of the second appointment letter Ex. M/6, it is clear that the second appointment of the workman was also on daily rate basis. The workman has also admitted in his cross-examination that after his termination from the service he was reappointed vide Ex. M/6. The workman has further admitted in para 3 of his cross-examination that he was appointed on daily wages for a limited period and on the condition that he will have to pass the departmental examination.

10. The management has examined Shri J. B. Bhatti to the effect that the workman was directed vide Notification Ex. M/11 to appear in the departmental examination to be held

on 23rd August, 1987; that the workman attended the test and he failed to qualify the written & typing test; that the workman was again directed to qualify the typing test. He did not appear in the examination. Workman has also admitted in his cross-examination that he failed to qualify the typing test. Consequently, the workman who was not found fit, was rightly removed from the service by the management. Apart from this, the appointment of the workman was on daily wages for a specified period and as such the workman is not entitled to claim the regularisation in service. The contention of the learned Counsel for the workman is that the management has no right to change the conditions of the service and management was not entitled to subject the workman to pass the test. The services of the workman were terminated on account of not passing the test after his second phase of appointment vide Ex. M/6. Vide Ex. M/2 the workman was not required to appear in the written test for the regular appointment. Ex. M/2 is not a material document to be taken into consideration for the second phase of termination of the workman. The workman is making an attempt to club the two different appointment letters Ex. M/2 and Ex. M/6 in order to create the confusion and built up a cooked up argument that the condition of clearing the typing test was subsequently added by the management.

11. The initial appointment of the workman was for a limited period and he was a daily wages employee and the service was rightly terminated w.e.f. 1st January, 1987. The second appointment of the workman on humanitarian and compassionate ground was clearly on the condition that he will have to clear the written and typing test, the workman has failed to clear the test inspite of repeated opportunities. Consequently, the subsequent termination of his after his posting on compassionate ground is also just and proper.

12. The action of the management in terminating the services of the workman with effect from 30th January, 1988 is justified. Workman is not entitled for any relief. Parties to bear their own costs.

ARVIND KUMAR AWASTHY, Presiding Officer

नई दिल्ली, 25 जुलाई, 1995

आ. 2258.—आयोगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पंजाब नेशनल बैंक के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निहित आयोगिक विवाद में केन्द्रीय सरकार आयोगिक अधिकरण, नई दिल्ली के पंचपद को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-7-95 को प्राप्त हुआ था।

[संख्या पुन-12012/72/86/D.IV-A/आइयार (बी-2)]

बी. के. शर्मा, डैस्क अधिकारी

New Delhi, the 25th July, 1995

S.O. 2258.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, New Delhi as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Punjab National Bank and their workmen, which was received by the Central Government on 24-7-95.

[No. 1-12012/72/86 D.IV.A/IR(B-1)]

V. K. SHARMA, Desk Officer

BEFORE SHRI GANPATI SHARMA : PRESIDING OFFICER - CENTRAL GOVT. INDUSTRIAL TRIBUNAL: NEW DELHI

I. D. No. 50/87

In the matter of dispute between :

Shri K. N. Joshi through
The General Secretary,
PNB Workers' Organisation,
898, Nai Sarak, Chandni Chowk
Delhi

Versus

The Regional Manager,
Punjab National Bank,
F-14, Competent House,
Connaught Place,
New Delhi,

APPEARANCES :

Shri Satish Chabra for the workman
Shri Rajiv Bhalla for the Management.

AWARD

The Central Government in the Ministry of Labour vide Order No. 1-12012/72/86-D.IV(A) dated 9-7-87 has referred the following industrial dispute to this Tribunal for adjudication :

"Whether the action of the management of Punjab National Bank in imposing the penalty of stoppage of 2 Annual Graded Increments permanently in respect of Shri K. N. Joshi, Clerk/Cashier is justified? If not, to what relief the workman is entitled?"

2. The facts as stated in the statement of claim are that Shri K. N. Joshi joined the Bank on 4th August, 1970 as Temporary Daftary in the Inspection Deptt. At that time he was a matriculate. Later on he was absorbed as Peon and was on probation from 14-3-73 and posted at branch office Shahdara on the basis of seniority amongst the temporary workman working in the region. He was confirmed on 14th September, 1973.

3. He was charge-sheeted by the Manager on 13th/31st August, 1978 for concealment of all facts relating his educational qualifications on the plea that he had qualified higher secondary while he was working as temporary daftary and that he did not inform this fact to the bank at that time. On enquiry instituted against him punishment of discharge was proposed but in the meanwhile he sat in departmental exam. and was selected as Clerk/Cashier. After personal hearing and representation he was promoted as clerk/cashier but his two increments in the clerical cadre were withheld and he was posted at branch office Krishan Nagar vide order dated 13th October, 1979. The penalty of stoppage of two increments permanently on the workman was unjustified as there was no concealment of facts regarding passing of higher qualification. As per allegations in the statement of claim the stoppage of increment was unwarranted discriminatory and against the law.

4. The management in its written statement alleged that the reference order was bad in law on the ground that it was a belated one. The workman was estopped from raising the dispute having fully accepted the punishment voluntarily. It was further stated on merits that the rules regarding the appointment of sub-staff were laid down by the Bank which state that any person who is 8th class pass and has not passed matriculation examination was eligible for appointment in sub-staff cadre in the bank subject to other criteria for eligibility. Shri K. N. Joshi was appointed in the service of the bank as probationary peon on 14-3-73 as per letter of the same date. He submitted a certificate for his educational qualifications showing that he was higher secondary fail. It came to the notice of the Bank that he has misrepresented the facts relating to educational qualifications declaring that he was not higher secondary pass though he had passed higher secondary in the year 1971 as per certificate. The workman thus according to the management had committed gross misconduct, so a charge-sheet was served upon him for deliberately giving false declaration with regard to his educational qualifications while joining the bank service. He was served with a charge-sheet dated 31-8-78 by the

management to which he submitted reply dated 25-9-78. Enquiry was conducted and the disciplinary authority after giving thought to the facts and circumstances of the case proposed punishment of discharge in terms of the Bipartite Settlement to the workman concerned. In the meantime the workman concerned qualified for promotion to clerical cadre and pleaded that in case the bank takes the lenient view his increment will be stopped and promoted to the clerical cadre. Hence two increments were stopped permanently by the management against which the workman represented to the authorities but was given no relief as far as stoppage of two increments was concerned.

5. Management in support of its evidence examined Mr. Midha MW1 and R.K.B. Singh MW2 while the workman himself appeared as WW1.

6. I have heard representative for the parties and have gone through the record.

7. Representative for the management has urged that the minimum qualification required for recruitment as Peon is 8th pass-middle pass and any person holding higher qualifications than middle pass was not eligible as per rules and circular No. 2 dated 20-4-72 which reads as under :

"CIRCULAR NO. 2

SUB : RECRUITMENT OF SUBORDINATE STAFF

Revised specifications for recruitment of subordinate staff are given in the Annexure.

2. It may be seen from the specifications that no minimum educational qualification has been prescribed for ex-servicemen provided they have satisfactory Discharge Certificate. The specifications laid down will hold good for their appointment as guards and also against Composite Designations viz. Peon-cum-Chowkidar, Peon-cum-Guards.

3. In appointing persons to any subordinate post, first preference will go to the local candidates to meet aspirations of the local people and also to derive benefits of the candidate's knowledge of local language and local conditions. Among such prospective local candidates priority be given to ex-servicemen for appointment as Guards or Peon-cum-Chowkidar or Peon-cum-Guard.

4. Under no circumstances over qualified persons be appointed for the subordinate posts and to ensure strict compliance with the rules regarding qualifications as prescribed in the Annexure, a declaration as appended below be obtained from the candidate selected for subordinate post :—

"I hereby declare that I have passed middle examination from _____ School, which is a Government recognised School and have not studied beyond that/have studied upto IX standard examination. I am fully aware that if it is found at any stage that I have suppressed material information regarding my education, I shall be disqualified and liable to be removed from Bank's service".

5. As and when vacancy arises (in the subordinate cadre) the nearest local employment exchange, State/St. Soldiers, sailors' & Airmen Boards should be notified of the vacancies and the candidates sponsored by them should be screened and thereafter interviewed to select the best ones for appointment to the posts. Ex-military personnel or ex-police personnel being proficient in use of fire arms, should be given 1st and 2nd preference respectively for appointment as Guards. Ex-military personnel should be given preference for appointment as Peon-cum-Chowkidar and Peon-cum-Guards also.

Sd/- Staff Controller

8. He has further alleged that the workman at the time of his recruitment has shown his qualifications as middle pass though at that time he was higher Secondary. For these reasons action taken by the Management against him was fully justified.

9. The representative for the workman on the other hand has urged that he was qualified for the lower post cannot be a disqualification and any person who is more qualified can perform the same job better than a lesser qualified person. Moreover the charge-sheet submitted to the workman itself states as under :

"Date : 30/31-8-78

B. O. Gandhi Nagar,
Delhi-31.

Shri K. N. Joshi, Peon.

C/o P. N. Bank,
B. O. Gandhi Nagar,
Delhi-31.

It has been observed from our record that at the time of appointment in March, 1973. You declared your qualifications as Higher Secondary fail, whereas it has been reported to us that you passed Higher Secondary examination with second Division in 1971. Your roll No. is reported to be 20967 and you secured 363 marks out of 800. It has also been reported that you studied beyond Higher Secondary also in Shyam Lal College Shahdara Delhi during the period 1971 to 1974.

You have concealed the facts from the Authorities and have got appointment by misrepresentation. You have also studied beyond the Higher Secondary without permission from the Authorities.

You are hereby instructed to let us have your explanation within 48 hours from the receipt of this letter failing which it will be presumed that you admit the charges and the authorities will proceed *ex parte* for taking disciplinary action".

10. The above charge-sheet according to the representative for the workman shows that he did not conceal any fact because according to the charge-sheet he had described himself as Higher Secondary fail which means that he was matric pass. This fact is supported by the history sheet of the workman prepared by the bank Ex. W-3 in which his qualifications has been shown as Higher Secondary Fail. Higher Secondary is an Examination of the 11th class while matric is that of the 10th class. Ex. W-3 was not admitted but this document is that of the management and no contradictory history sheet of the workman has been produced by the management to contradict this document. Moreover, after a perusal of the above document shows that there is no force in what the management has alleged in this case and no justification exist in the stoppage of two increments of the workman as done by the Management. Representative for the workman have further urged that the workman in his documents had shown his qualification and had not concealed any fact from the management. The Management had also come to know of this fact at the time when he was selected for the post of clerk. Moreover, the workman representative has further urged that if the workman fulfilled the minimum qualification prescribed for the post his possessing any higher qualification later does not make him ineligible for the post. He has referred to a full bench judgment of the Karnataka High Court in writ appeal No. 818 of 882 of 1979 decided on 18-4-90. Further the higher qualification possessed by a person than the minimum prescribed is a credit to the person and not a discredit to him. The purpose of lying down minimum qualification is that a person having the prescribed qualification is eligible for the post and he being possessing higher qualification does not become ineligible for the same. No mischief or fraud had been played by the workman and the order of the management depriving him of two increments was illegal, arbitrary and unjust.

11. After having gone through the points urged before me by the representatives of the parties, I am of the view that the points raised by the workman representative hold good and the management was not justified in imposing the punishment of stoppage of increments on the workman for his possessing higher qualification than the minimum prescribed. The workman was higher secondary pass though he minimum qualification for eligibility was middle pass. He could not have been rejected on this score alone because he was positively having the minimum qualification for the post for which he was selected. Moreover when he was selected his qualification should have been checked and if he was not fulfilling the qualification he could have been rejected there and then but the management instead of refusing to take him into employment selected him and later on confirmed him and promoted him as a clerk and also imposed the punishment of stoppage of two increments. This was unjust and in my opinion the order of the management in imposing punishment of two increments was not justified and that the

order of the management deserves to be act aside. Parties shall bear their own costs.

GANPATI SHARMA, Presiding Officer
Central Govt. Labour Court, New Delhi

31st May 1995.

Further it is ordered that the requisite number of copies of this award may be forwarded to the Central Govt. for necessary action at their end.

31st May, 1995.

GANPATI SHARMA, Presiding Officer

नई दिल्ली, 25 जुलाई, 1995

का.आ. 2259.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बैंक ऑफ महाराष्ट्र के प्रबंधन के संबंध में नियंत्रकों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में, केन्द्रीय सरकार औद्योगिक अधिकरण, नई दिल्ली के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-7-95 को प्राप्त हुआ था।

[मंडला एल-12012/163/90-आई.आर.बी-2]
वी.के. शर्मा, डेस्क अधिकारी

New Delhi, the 25th July, 1995

S.O. 2259.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, New Delhi as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Bank of Maharashtra and their workmen, which was received by the Central Government on 24-7-95.

[No. L-12012/163/90-IR (B-II)]
V. K. SHARMA, Desk Officer

BEFORE SHRI GANPATI SHARMA : PRESIDING
OFFICER : CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL : NEW DELHI
I.D. No. 113/90

In the matter of dispute between :

Shri Ram Pershad through The General Secretary,
Mahabank Karamchhari Sangh, 898, New Delhi-110001.

Versus

Deputy General Manager,
Bank of Maharashtra, 6/30-31,
W.E.A. Karol Bagh, New Delhi-110005.

APPEARANCES :

Shri R.K. Kadam for the workman.
None for the Management.

AWARD

The Central Government in the Ministry of Labour vide its Order No. L. 12012/163/90-I.R.B. II dated 1-10-1990 has referred the following industrial dispute to this Tribunal for adjudication :

"Whether the action of the management of Bank of Maharashtra, New Delhi in not giving promotion to Shri Ram Pershad as Havaladar while his juniors Shri Ram Singh and others were promoted was justified ? If not to what relief the workman was entitled to?"

2. Ram Pershad workman in his statement of claim alleged that the management of the Bank of Maharashtra initially

utilised his services temporarily though the post was permanent one. He agitated over the issue which is subsequently adjudicated by the Tribunal on a reference made by the Government. The award was given in his favour.

3. The Management, however, despite the award denied promotion against special allowance post and continued promoting junior employees ignoring his seniority. The post of Havaladar carrying higher allowance was not given to him and the juniors were allowed to work on said post and the workman was being given the post of Bill Collector carrying less allowance. At Connaught Place Branch even his junior was posted as Havaladar and the said junior Ram Singh was working from 1979 vide Uttam Singh and Indar Singh were also junior to him and working as Daftry. It was alleged that the workman may be ordered to be treated as Havaladar from the date his junior Ram Singh was posted as such and pay him allowance as per his entitlement.

4. The Management in its written statement alleged that the workmen Ram Pershad were working at Connaught Place Branch during the year 1979 and a post of Daftry was vacant in the same year due to elevation of Mr. G. S. Negi at the post of Havaladar. The said post was also at U.P.S.C. Extension counter attached to the Connaught Place Branch. The post of Daftry was offered to Ram Pershad workman working as Bill Collector vide office order dated 6-2-79 but he informed vide letter dated 7-2-79 that he was not willing to go to U.P.S.C. extension counter as Daftry and he surrendered as Daftry allowance with the request that Bill Collector allowance may be protected. He was offered the post of Daftry which he declined and he was not entitled to the allowance of Havaladar which functions he has never performed at any stage of time.

5. The workman appeared himself on WW1 while the management examined Chander Shekher as MW1.

6. I have heard representative for the parties and have gone through the record.

7. Both the representative for the parties have reiterated what was alleged in the statement of claim and written statement and also the written arguments.

8. On careful perusal of the record, I am satisfied that the case of the workman was not tenable. He was offered the post of Daftry at the U.P.S.C. Counter of the Connaught Place Branch where he was posted but he declined to go to the said post and preferred to work at the Connaught Place Branch with the allowance carrying post, he was already working on. He had himself declined to accept the post and was again offered the post of Daftry vide Order dated 16-3-91, vide letter dated 20-3-91, he again declined the offer due to personal reasons. Bombay Tribunal in case No. 242 of 1985 the Bank of Maharashtra Vs. Bank of Maharashtra Karamchhari Sangh Bombay held that the claim of the Union for getting the post of Havaladar without performing the duties of Daftry by the employee was not tenable. The person who has refused to perform the duties of the post of Daftry cannot get the allowance of Havaladar without performing those duties. Ram Pershad had refused to perform the duties of Daftry so he was not entitled to the allowance of the Havaladar post. Even though he might be senior. In view of my discussion above I am of the Opinion that the workman was not entitled to the allowance as per seniority claimed by him in his statement of claim and the action of the Management was justified. Parties shall bear their own costs.

GANPATI SHARMA, Presiding Officer

Central Govt. Industrial Tribunal, New Delhi

July 6, 1995.

Further it is ordered that the requisite number of copies of this Award may be forwarded to the Central Government for necessary action at their end.

GANPATI SHARMA, Presiding Officer

Central Govt. Industrial Tribunal New Delhi

July 6, 1995.

नई दिल्ली, 25 जुलाई, 1995

का.आ. 2260.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार यूनियन बैंक ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में, केन्द्रीय सरकार औद्योगिक अधिकरण, नई दिल्ली के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-7-95 को प्राप्त हुआ था।

[संख्या एन-12012/33/91/आई.आर. (बी. 2)]

वी. के. शर्मा, डेस्क अधिकारी

New Delhi, the 25th July, 1995

S.O. 2260.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, New Delhi as shown in the Annexure in the industrial dispute between the employers in relation to the management of Union Bank of India and their workmen, which was received by the Central Government on 24-7-1995

[No. L-12012/33/91-IR (B-II)]

V. K. SHARMA, Desk Officer
ANNEXURE

BEFORE SHRI GANPATI SHARMA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, NEW DELHI

I. D. No. 96/91

In the matter of dispute :

BETWEEN

Shri Ram Kumar Marya, Bal Sahayog School, Connaught Circus, New Delhi-110001.

Versus

Assistant General Manager,
Union Bank of India,
14/15 F, Connaught Place, New Delhi-1.

APPEARANCES :

Workman in person.

Shri S. L. Verma—for the management with Shri Pawan Behl.

AWARD

The Central Government in the Ministry of Labour vide its Order No. L-12012/33/91-IR (B-8) dated Nil has referred the following industrial dispute to this Tribunal for adjudication .

"Whether the action of the management of Union Bank of India in terminating the services of Shri Ram Kumar Marya is justified ? If not, to what relief is the workman entitled ?"

2. The workman in his statement of claim has alleged that he was engaged by the Management of the Union Bank of India w.e.f. August, 84 as Mali-cum-Peon on daily wage basis. He was, however, paid Rs. 600 to Rs. 700 monthly. He was engaged against the work of regular nature and against regular post of Mali-cum-Peon and he worked continuously till July, 87 when his services were terminated. No show cause notice nor any retrenchment compensation was given to him and his termination was bad in the eye of law and violative of Section 25-F of the I. D. Act.

3. The Management in its written statement alleged that there was no relationship of employer and employee between the workman and the bank. He was never employed by the management as Mali-cum-Peon. The workman was Florist and he was supplying flowers at their Connaught Place Branch and was submitting his bills for supply of flowers. No appointment letter was ever given to him nor he was required to observe any rules and regulations of the Bank. His claim was false and frivolous and payment if any were made for the supply of flowers made by him. The Management examined Shri S. L. Verma MW-1 while the workman appeared himself as WW-1. I have heard the representative for the parties and have gone through the record.

4. The Management representative has urged that Ram Kumar was not in the employment of the bank and a bank being a Government Body cannot appoint and one without issuance of any proper appointment letter. No such appointment letter has either been alleged nor produced in this case. It cannot be believed that a person would continuously work for 7 years and he would not ask for any appointment letter. The fact that he was carrying a certificate Ex. W-1 does not prove him to be an employee of the bank and it only indicates that he was paid Rs. 40 PM from August, 81 to March, 86 and from April, 86 to January, 87. He was paid Rs. 50 P.M. for carrying after the plants. This certificate was issued by the manager of the Connaught Place Branch but it does not mean that he was a regular employee.

5. The workman representative on the other hand has urged that this certificate was a clear proof of his employment which was duly issued by the Manager of the concerned branch and as such was entitled to be protected under the provisions of the I. D. Act. Any violation of the Act would go against the Management and in that situation the workman deserves to be reinstated.

6. After having gone through the points urged before me and the documents filed in this case, I am of the considered view that the workman was never regular employee of the bank. Even if the certificate produced by the workman is considered to be correct there is no regular job in the bank on which he could be paid only Rs. 40, 50 PM. This certificate also further indicates that he was looking after plants. He was a part time employee looking after the plants but in no way he could be treated as regular employees of the bank. The Management Bank is the Government of India undertaking and it cannot be told that any person could be working in a organisation like this on a monthly salary of Rs. 40 to Rs. 50 PM without any appointment letter for a continuous period of more than 7 years. No relationship of employer and employee on regular basis has been established in this case and the manager too should have clarified this fact in his certificate given to the workman. The workman was, therefore, not entitled to any relief as he was at best a part time employee though the management state that the money paid to him was Rs. 40 to Rs. 50 monthly for supply of flowers. The workman as such is not entitled to reinstatement of any other relief in this case and his claim is without merit. No violation of any kind of the Act has been established in this case. Parties are left to bear their own costs.

GANPATI SHARMA, Presiding Officer
16th June, 1995.

Further it is ordered that the requisite number of copies of this award may be forwarded to the Central Government for necessary action at their end.

Dated : 16th June, 1995.

GANPATI SHARMA, Presiding Officer

नई दिल्ली, 25 जुलाई, 1995

का.आ. 2261.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार योनिफेशन बैंक ऑफ कामर्स के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक

विवाद में निम्न सरकार औद्योगिक अधिकरण, नई दिल्ली के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-7-95 को प्राप्त हुआ था।

[संख्या एल-12012/160/89/डी. II ए/आई. आर. बी. 2]
बी.के. शर्मा, डेस्क अधिकारी

New Delhi, the 25th July, 1995

S.O. 2261.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, New Delhi as shown in the Annexure in the industrial dispute between the employers in relation to the management of Oriental Bank of Commerce and their workmen, which was received by the Central Government on 24-7-1995.

[No. L-12012/160/89-D.II (A)-IR (B-II)]
V. K. SHARMA, Desk Officer

ANNEXURE

BEFORE SHRI GANPATI SHARMA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, NEW DELHI

I. D. No. 25/89

In the matter of dispute :

BETWEEN

Shri Pramod Kumar Sharma,
S/o Shri S. D. Sharma,
149, Pandu Nagar,
New Shahanj,
Agra-2.

Versus

The Management of
Oriental Bank of Commerce,
Represented through the
Dy. General Manager,
Regional Office,
4/65, Padam Singh Road,
W.E., Area, Karol Bagh,
New Delhi.

APPEARANCES :

Shri R. K. Bansal—for the workman.
Shri Jagat Arora—for the Management.

AWARD

The Central Government in the Ministry of Labour vide its Order No. L-12012/160/89-D.II (A) dated 7-3-90 has referred the following industrial dispute to this Tribunal for adjudication :

“क्या प्रबंधक ओरियन्टल बैंक ऑफ कामर्स नई दिल्ली द्वारा श्री प्रमोद कुमार शर्मा अस्थाई लिपिक की सेवाएं दिनांक 19-10-83 से छंटनी द्वारा समाप्त करने के पश्चात नई अस्थाई पदों की भरती के समय उद्ये स्वयं को बैंक सेवा हेतु प्रस्तुत करने का एक अवसर प्रदान न किया जाता उचित एवं वैध है “कर्मचारी किंग राइन पाने का अधिकारी है”।

2. In the statement of claim it was alleged that the workman was appointed at the Chandni Chowk branch on 19-7-80 where he worked till 19-10-83 after which his services were terminated without any justification. He had work-

ed for 80 days only. The applicant had worked as a regular clerk and discharged the duties of permanent clerical nature but his services were illegally and without any justification terminated. He was not junior most workman at the time of his retrenchment and fresh hands were appointed after the termination of his services without giving him any opportunity of re-employment. No appointment letter, no termination letter, no notice or notice pay or any compensation was paid to the applicant by the management. It was a clear case of violation of the rules of natural justice and Section 25 G of the I. D. Act.

3. The Management in its written statement alleged that the claim was filed at a very belated stage. The workman was engaged as a temporary clerk for specific period from July to October, 1983 for a total number of 89 days. The recruitment to the clerical post in the nationalised banks was done through bank services recruitment board after conducting test, interview. Applicant never appeared before any such board nor took any test or interview and he could not have been given the assignment by rejecting the claim of others who would follow the procedure through the selection board.

4. The contents in the statement of claim were denied as wrong and frivolous and it was prayed that the workman was not entitled to any relief. The Management examined Shri B. R. Jain MW-1 in support of its claim while the workman himself appeared as WW-1.

5. I have heard representatives for the parties and have gone through the record.

6. The only point urged by the representative for the workman in this case was that after the termination of the services of the workman on 19-10-83 opportunity was not granted to the workman when recruitment to temporary post was made which was illegal. No other point has been urged before me by the representative for the workman and after having gone through the points given in written arguments and addressed orally, I am of the definite opinion that the workman who was given employment for a fixed period of 89 days had no claim on the post and could not pay any stretch of imagination become entitled for employment on regular basis. It is admitted by the workman himself in his cross-examination that the recruitment to clerical post is done on All India Level Basis by a Selection Board for the Nationalised Banks and the management bank in this case is one of those nationalised banks. If a person has been given some favour by permitting him to work for about 89 days he does not get any right to become temporary employment because by having served for this period he has not acquired any special right to this. He is one of the other aspirants for the post who applied on advertisement by the recruitment board and had no special status by virtue of his having served for a short period. The Management did not stop him from applying or appearing before the board but he could not claim any special right for recruitment except in the laid down procedure. I, therefore, hold that the workman claim was not justified and the action of the management was according to law. Parties shall bear their own costs.

GANPATI SHARMA, Presiding Officer

Dated : 22-6-1995.

Further it is ordered that the requisite number of copies of this award may be forwarded to the Central Government for necessary action at their end.

GANPATI SHARMA, Presiding Officer

June 27, 1995.

नई दिल्ली, 25 जुलाई, 1995

का.आ.2262.—औद्योगिक विवाद अधिनियम, 1947 (1917 का 14) की धारा 17 के अन्तर्गण में, केन्द्रीय सरकार सेटल बैंक ऑफ इंडिया के प्रबंधनत्व के संबद्ध नियोजकों और उत्तरे कर्मचारियों के बीच, अन्तर्गण में निश्चित औद्योगिक विवाद में, केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचपट को

प्रकाशित करती है, जो केन्द्रीय सरकार को 24-7-95 को प्राप्त हुआ था।

[संख्या एल-12012/54/89/डीआईए/आई.आर.बी.2]
वी.के. शर्मा, डेस्क अधिकारी

New Delhi, the 25th July, 1995

S.O. 2262.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure in the industrial dispute between the employers in relation to the management of Central Bank of India and their workmen, which was received by the Central Government on 24th July, 1995.

[No. L-12012/54/89-D.II (A)/IR (B-II)]

V. K. SHARMA, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR (MP)

Case Ref. No. CGIT/LC(R)(159)/1989

BETWEEN

Shri S. S. Dabale, represented through the General Secretary, Central Bank of India Employees Union, Vohra Brothers Building, Mount Road, Nagpur (MS)-440001.

AND

The Regional Manager, Central Bank of India, Kamptee Road, Nagpur (MS)-440001.

PRESIDED IN :

By Shri Arvind Kumar Awasthy.

APPEARANCES :

For Workman—None.

For Management—Shri S. N. Choudhury.

INDUSTRY : Banking DISTRICT : Nagpur (MS)

AWARD

Dated, the 11th July, 1995

This is a reference made by the Central Government, Ministry of Labour, vide its Notification No. L-12012/54/89-D.II (A) dated 10th August, 1989, for adjudication of the following industrial dispute :—

SCHEDULE

"Whether the action of the management of Central Bank of India in imposing the penalty of stoppage of five increments with cumulative effect on Shri S. S. Dabale vide order dated 30-12-85 is justified? If not, to what relief the workman is entitled?"

2. Admitted facts of the case are that the workman was appointed on 1-4-1970 as an Armed Guard in the Central Bank of India; that the departmental enquiry was started against the workman on 6-12-1983 on the allegation that he refused to carry the cash amounting to Rs. 2,26,000. It is further admitted that the workman was dismissed from service vide order dated 14-8-84; it is further admitted by the workman that he preferred an appeal and approached the Assistant Labour Commissioner, Nagpur for redressal of his grievances that the appellate authority vide order dated 30-12-1985 imposed the penalty of stoppage of five increments.

3. The workman has challenged the impugned order dated 30-12-1985 of stoppage of five increments. This order was passed by the Appellate Authority on the basis

of the settlement arrived at between the workman and the management. According to the terms of settlement the workman is reinstated from 5-2-1986 without back wages. The claim raised by the workman is against the terms of settlement. The workman has not participated in the present proceedings before this Tribunal after 5-6-1991 and he was justified in not pursuing the matter any further. Reference is answered in favour of the management. Parties to bear their own costs.

ARVIND KUMAR AWASTHY, Presiding Officer

नई दिल्ली, 25 जुलाई, 1995

का.आ.2263.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एल.आई.सी. ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निश्चित औद्योगिक विवाद में, केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-7-95 को प्राप्त हुआ था।

[संख्या एल-17012/25/93/आई.आर.बी.-2]
वी.के. शर्मा, डेस्क अधिकारी

New Delhi, the 25th July, 1995

S.O. 2263.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure in the industrial dispute between the employers in relation to the management of LIC of India and their workmen, which was received by the Central Government on 24-7-1995.

[No. L-17012/25/93-IR (B-II)]

V. K. SHARMA, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR (MP)

Case Ref. No. CGIT/LC(R)(43)/1994

BETWEEN

Shri Gajanan P. Mohokar, R/o Anand Nagar, Amravati (MS).

AND

The Divisional Manager, Life Insurance Corporation of India, Jayant Complex, V.M.V. Road, Amravati (MS)-444605.

PRESIDED IN :

By Shri Arvind Kumar Awasthy.

APPEARANCES :

For Workman—None.

For Management—Shri S. B. Kulkarni.

INDUSTRY : LIC DISTRICT : Amravati (MS)

AWARD

Dated, the 14th July, 1995

This is a reference made by the Central Government, Ministry of Labour, vide its Notification No. L-17012/25/93-IR (B-II) dated 27th April, 1994, for adjudication of the following industrial dispute :—

SCHEDULE

"Whether the claim of Shri Gajanan P. Mohokar that he was an employee of Life Insurance Corporation of India, Amravati and that the management have

terminated his services as Sub-Staff illegally with effect from 22-3-1991 is correct? If so, what relief is Shri Mohokar entitled to?"

2. The case of the workman is that he was appointed by the management on 16-8-89 and since then he has continuously worked till 22 March 1991; that the management has terminated the services of the workman without giving him notice or compensation; that the workman has completed more than 240 days service and as such his termination is illegal.

3. The case of the management is that the workman was not employed by the management. He has not worked continuously from 16-8-89 to 22-3-1991. Management has alleged that the applicant was an independent contractor and not an employee of the management.

4. Workman has not led any evidence to establish that he has worked for more than 240 days. Consequently, reference is answered in favour of the management. Workman is not entitled for any relief. No order as to costs.

ARVIND KUMAR AWASTHY, Presiding Officer

नई दिल्ली, 25 जुलाई, 1995

का.आ.2264.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुमरण में, केन्द्रीय सरकार यूको बैंक के प्रबंधन के संवद्र नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निहित औद्योगिक विवाद में, औद्योगिक अधिकरण, गुवाहाटी के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 25-7-95 को प्राप्त हुआ था।

[संख्या एन-12012/248/94/आई.आर.(बी.2)]

बी.के. शर्मा, डेस्क अधिकारी

New Delhi, the 25th July, 1995

S.O. 2264.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Guwahati as shown in the Annexure in the industrial dispute between the employers in relation to the management of UCO Bank and their workmen, which was received by the Central Government on 25-7-1995.

[No. L-12012/248/94-IR (B-ID)]

V. K. SHARMA, Desk Officer

ANNEXURE

IN THE INDUSTRIAL TRIBUNAL GUWAHATI ASSAM

Reference No. 8(C) 1994

PRESENT :

Shri J. C. Kalita B.A. (Hons) LL.B. Presiding Officer,
Industrial Tribunal, Guwahati.

In the matter of an Industrial Dispute

BETWEEN

The Management,

UCO Bank, Silpukhuri Guwahati.

VS.

State Secy., UCO Bank Employees Association Fancy Bazar.

APPEARANCES :

Shri B. R. Dev. Advocate, Shri H. Talukdar, Advocate—
for the Management.

Shri A. R. Dasgupta, Advocate Union Official—for the
Workman.

1936 GI/95—4

AWARD

The Government of India by a Notification No. L-12012/248.94-IR (B-ID) dated 12-12-94 referred an industrial dispute between the Management of UCO Bank, Guwahati and its workman Sri Sanjiban Mandal a temporary Sub staff for adjudication by this Tribunal with copies to the respective parties. On receipt of the notification a case was registered and notices were sent to the parties to appear before this Tribunal and to file their written statement. Both the parties filed their written statement together with few documents. The issue referred reads as follows :

"Whether the action of the management of UCO Bank, Guwahati in not regularising and terminating the services of Shri Sanjiban Mandal, Temporary sub-staff w.e.f. 6-1-94 is legal and justified? If not, to what relief is the said workman entitled?"

In their written statement Management pleaded their inability to absorb the workman Sri Sanjiban Mandal who was engaged as casual worker with effect from 6-10-87 to 5-1-94 because of the age bar prescribed by the settlement between the Management of UCO Bank and their employees association arrived on 11-10-89. The terms of the employment were circulated by the Management vide circular No. UHO/PHS/16/89 dated 19-10-89.

The Bipartite settlement dated 19-10-89 says about the age as follows. Such casual worker should have satisfied the normal stipulation in the Bank regarding age, namely minimum 18 years and maximum 26 years on the date of his first engagement as casual worker. As the workman was 17 years 11 months, 16 days on his initial engagement as casual worker on 6-10-87 and has not attained the minimum age of 18 years he could not be absorbed in the regular cadre. The Secretary, UCO Bank employees association is estopped from raising the present industrial dispute because of the operation of the existing settlement. As such the reference is liable to be rejected.

The association on behalf of the workman contended in their written statement that the workman served in the Bank from 6-10-87 to 5-1-94 as casual worker to the satisfaction of the Management. The association arrived at a settlement on 19-10-89 regarding the permanent absorption of casual worker working in the Bank who has completed 240 days or more without any interruption during the period of 3 years immediately preceding 3 years from 13-10-86 to 11-10-89. The workman applied for permanent absorption in to the subordinate cadre but nothing was heard from the management. When the workman himself raised the dispute on 4-8-93 he was removed from service without any reason. Then the association raised the dispute before the Conciliation Officer but no relief was available. Thereafter the Central Government referred the dispute to this Tribunal for adjudication. It has been proved on behalf of the workman that the management he directed to regularise the workman in the cadre of sub-staff with full back wages.

No evidence was tendered by either sides. The learned counsel Sri B. K. Dey for the management deserves thanks for his fair submission that the dispute or difference in respect of age of the workman concern relates to 15 days only which the management thought it to be contrary to the settlement arrived at on 11-10-89. As per terms of settlement age of a casual worker shall be 18 years on the date of engagement but his (workman) age was found short by 15 days on the date of engagement on 6-10-87. Because of his under age the management could not absorb him permanently.

If we go by the letter of the settlement the management is right in its decision, but there is another aspect to be looked into on the context of the settlement as a whole. The settlement was effected on 11-10-89 covering the period from 13-10-86 to 12-10-89. It means that due weightage was given to those casual worker who were working since 13-10-86. This workman joined his duties on 6-10-87. So his case is also covered by the settlement. Weightage to back service for regularisation is a humanitarian aspect based on reasonableness and sound logic.

Not to speak of other organisation even the Banking concern in its day to day business ignores the value of 49 paise but considers the value of .50 paise and above to make it the next round figure or if it has less than .50 paise it is rounded off to the preceding round figure. In case of age on the policy of L.C.J. the fraction of less than 6 months is ignored but the fraction above 6 months is counted to next round figure. This principle is based on reasonableness and convenience. Fifteen days shortage in consideration of a year to go at the age limit in service is a very negligible fraction which can be readily and easily ignored.

In defending the case of the Management the learned counsel Sri Dey relied on (1995) 1, SC, 138. Here in this case there was deficiency of educational qualification of the writ petitioner. Though she has not acquired the requisite educational qualification for the post she held at the time of initial appointment she subsequently acquired the degree qualification and thereby became eligible for the post. The Hon'ble Supreme Court disposed of the writ petition with an observation that the Government is at liberty to consider her case on merit. In my opinion age and educational qualification can not be at par. So the deficiency of 15 days in age should not be taken as a hazard to regularise the workman who had served for about 7 years continuously to the satisfaction of the authority. In the case of such peculiar nature the workman's right for regularisation in the service should be looked into from a different angle as a special case.

Another aspect is that the workman completed 2 years of valuable service by the time when the said settlement came into force on 11-10-89. Even prior to the date of settlement, the workman attained the age of 18 years in the service of the Bank. In the referred case the writ petitioner was appointed as Clerk on 28-8-68 under the provision of Punjab Public Service Commission (State Service Class III) regulation 1967. Where as the workman was on employment of the Bank long before the settlement came into operation on 11-10-89. In the referred case attainment of qualification was subsequent to the commencement of the regulation, but here in this case attainment of 18 years of age was prior to the settlement. So I find the decision not applicable.

In the light of the aforesaid discussion what I find is that the Management erred in terminating the workman from the service after continuous engagement for about 7 years as a casual worker. The order of termination is hereby held to be unjustified and illegal. A casual worker is legally entitled to regularisation in service on completion of 240 days of continuous employment in a year. The Management is hereby directed to regularise him in the regular cadre of sub-staff with continuity of his previous service from 6-10-87 with full back wages as available or paid to other casual workers at the time of regularisation.

I give this Award on this 11th July 1995 under my hand and seal.

J. C. KALITA, Presiding Officer

दर दिल्ली, 25 जुलाई, 1995

का.प्र. 2265.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार यूनियन बैंक ऑफ गुवाहाटी के प्रबंधन के संबंध नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में, औद्योगिक प्रतिकारण, गुवाहाटी के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 25-7-95 को प्राप्त हुआ था।

[संख्या एल-12012/300/93-आई.आर.बी.2]

बी.के. शर्मा, डेस्क अधिकारी

New Delhi, the 25th July, 1995

S.O. 2265.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Guwahati as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Union Bank of India and their workmen, which was received by the Central Government on 25-7-95.

[No. L-12012/300/93/IR (B-II)]

V. K. SHARMA, Desk Officer

IN THE INDUSTRIAL TRIBUNAL : GUWAHATI :
ASSAM

REFERENCE NO. 3(C) 1994

Present :

Shri J. C. Kalita B.A. (Hons) LL.B
Presiding Officer,
Industrial Tribunal, Guwahati.
In the matter of an Industrial Dispute between :
The Management,
Union Bank of India,
Guwahati

AND

Their workman Sri Narendra Roy Namasundra represented by the General Secy. North Eastern Regional Bank Association.

Appearance :

Shri R. L. Yadav, Advocate : For the Management.
Shri S. Chakravarty, union official : For the workman.

AWARD

The Ministry of Labour, Govt. of India, New Delhi by a notification No. 112012/300/93-LRB(11) dt. 4-8-94 referred an Industrial Dispute between the Management of Union Bank of India, Guwahati and their workman Sri Narendra Roy Namasundra to this Industrial Tribunal for adjudication with copies to the respective parties. On receipt of the reference the notices were sent to the parties to appear before this Tribunal and to file their written statement. Both the parties appear before this Tribunal and filed their written statement.

The issue referred reads as follows :

"Whether the action of the management of Union Bank of India, Guwahati in not regularising and terminating the services of Shri Narendra (Roy) Namasundra, part-time sweeper w.e.f. August, 1992 is justified ? If not, what relief is the said workman entitled to ?

The workman was represented by their General Secy. 'North Eastern Region Union Bank Employees Association' Guwahati. In the written statement the workman contended that he was engaged on stipendiary basis as Part-time Sweeper at Silchar branch with effect from 1-6-91. He was paid wages as per the Bank existing norms. He was terminated from the service with effect from August 1992 by means of regularisation of Shri D. Nath, a part-time Sweeper working at Gahia branch, by way of transfer. It is clear case of victimisation by depriving a senior candidate who ought to have been regularised against the post of part-time Sweeper.

The management in their written statement contended that the workman was engaged as a casual labour on daily wages system as part-time Sweeper. The management pleaded that this Tribunal has no jurisdiction to entertain this reference as he was not a workman as defined in section 2(S) of Industrial Dispute Act. As a casual labour he can not claim any seniority for regularisation in any post. He was rightly terminated from service without any cloud of victimisation. Hence the workman is not entitled to the reliefs claimed. The management on its behalf examined one witness, but the Union examined none.

The management in their written statement stated that the workman was engaged as casual labour on daily wages basis with effect from 1-6-91. It is a fact that the workman was a part-time Sweeper. Though he was engaged on daily rated wages he was paid at end of the month. In support of this contention payment receipts are furnished.

The learned counsel for the workman drew my attention to a circular issued by the Regional Manager of Union Bank of India, Guwahati dt. 10-7-90 as to the amount to be paid to a part-time Sweeper. Monthly wage of Rs. 125.00 used to pay to a part-time Sweeper was raised to Rs. 200.00 per month from 1-7-88. Record shows that this workman was paid Rs. 200.00 per month from Dec. 1991 till he was terminated from service. The documentary evidences thus totally belied the oral evidence of Management's witness Sri D. Behra that the workman was paid only for the days he worked. The circular referred above has categorically stated that the stipend at the rate Rs. 200.00 per month is to be paid to all part-time Sweeper irrespective of whether services were regularised or not. The circular further stated that wherever part-time Sweeper are engaged by the Banks on daily wages, they are advised to pay proportionate stipend to part-time Sweepers on duty. If the evidence on Management witness is to be believed that the workman was engaged on daily wage basis and was paid for 21 days in a month or for the days he worked; how the Management paid Rs. 200.00 per month regularly to him from Dec. 1991 to Dec. 1992. It means that the workman was engaged for the whole month, what I find is that the workman was engaged on stipendary basis at the rate of Rs. 200.00 per month and not on daily wage basis.

It has been submitted on behalf of the Management that he is not a workman as defined in section 2(S) of the Industrial Dispute Act. The workman means any person (including an apprentice) employed in any Industry to do any skilled or unskilled manual, supervisory, Technical or clerical work for hire or reward, whether the terms of employment be express or implied and for the purpose of any preceding under this Act in relation to an Industrial Dispute, includes any such person who has been dismissed, discharged or retrenched in connection with or as a consequence of that Dispute. Here the workman was engaged for doing manual work on a monthly payment of Rs. 200.00 and was in continuous service of the Bank for more than 240 days in a year. As such it can be rightly held that he is a workman as defined in section 2(S) of the Act. It has been laid at rest by various decisions that a casual workman also comes under the ambit of the workman.

It has been submitted that he was not in continuous service. The Management witness deposed that the workman did not work for a single day in the month of Aug. 1991. Payment records also disclosed that he was not paid for the month Aug. 1991. Section 25(B) of the Act says that the workman shall be said to be in continuous service for a period if he is for that period in uninterrupted service including the service which may be interrupted on account of sickness or authorised leave or an accident or strike which is not illegal or lock out or cessation of work which is not due to any fault on the part of the workman. It is nowhere explained satisfactorily that his absence from duty in the month August 1991 was illegal, so he was not regularised; rather the records show that he has been working regularly since Sept. 1991 till he was terminated with effect from August 1992. As such it can be rightly held that he was in continuous service of the Bank. In support of his case the learned counsel for the Management relied on (1994) 2 S.C., page 630 which deals with Ad-hoc appoint and regularisation of person (Gazetted under Jammu & Kashmir Medical Education (Gazetted) service recruitment rules 1979. The person appointed under the said rule are not workman and do not come under the definition of workman of Industrial Dispute Act. So I find this decision not applicable here in this case.

The learned counsel for the Management further relied on AIR 1994 (SC) 1698 in support of his submission. This decision relates to casual workman of Education Deptt. under the State Govt. to clear up the backlogs. For non-regularisation of these casual workmen after continuous service these workmen in this written petition took the plea of working for a period of 240 days in a year recognised under the Industrial Dispute Act for regularisation of service of casual workers. This plea of completion of 240 days in a year was

not considered in this decision means that the casual workmen working in "Education Deptt." are not workman as defined in Sec. 2(S) of the Act. So I find this decision not applicable in his case.

It has been pleaded in the written statement that the post of part-time Sweeper at Silchar branch was lying vacant since 1989. This workman was engaged on 1-6-91 means that there was a necessity of a part-time Sweeper in the service of the Bank. The necessity was so acute that the Management had to regularise the service of one Sri D. Nath, a part-time Sweeper initially working at Guhria branch with effect from 11-2-92, against the post at Silchar where this workman was working in the same capacity since 1-6-91. The Management has not only violated the provision of circular date 10-1-90 but also wilfully disregarded the Bior-tite settlement dt. August 1992. It is held to be highly improper and violative of the principle of natural justice in regularising a junior part-time Sweeper (Sri D. Nath) over the head of a senior part-time Sweeper (The workman). So I find the termination of service of the workman wholly unjustified and he is to be regularised in the service of the Bank in the post of Sweeper with continuity of service with effect from 1-6-91.

The Management is further directed to pay back wages prevailing at the time of termination till the date of regularisation.

I give this Award on this 3rd July 1995 at Guwahati under my hand and seal.

J. C. KAHITA, Presiding Officer

नई दिल्ली, 23 जुलाई, 1995

का.आ. 2266.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एटोमिक एनर्जी के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निरादर औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक परिचरण, सहायक के अंतर्गत प्रकाशित करती है, जो केन्द्रीय सरकार का 25/7/95 को हुआ था।

[संख्या एल-42011/53/86-डी.ए. (बी) (पार्ट I)]

के.वी.बी. उन्नी, डेस्क अधिकारी

New Delhi, the 25th July, 1995

S.O. 2266.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Ahmedabad as shown in the Annexure, in the Industrial dispute between the employers in relation to the management of Atomic Energy and their workmen, which was received by the Central Government on 25-7-95.

[No. L-42011/53/88-D.I.(3)(PL)]

K. V. B. UNNY, Desk Officer

ANNEXURE

BEFORE SHRI H. D. PANDYA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL (CENTRAL), AT

AHMEDABAD

Reference (ITC) No. 21 of 1994
ADJUDICATION

BETWEEN

The Management of Department of Atomic Energy
(Heavy Water Plant, Baroda).

AND

The workmen employed under it.
In the matter of non-implementation of new rota system and payment of shift allowance.

AWARD

This industrial dispute between The Management of Department of Atomic Energy (Heavy Water Plant, Baroda) and the workmen employed under it had been referred for adjudication to the Industrial Tribunal under Section 10(1)(d) of the Industrial Disputes Act, 1947 by the Government of India, Ministry of Labour's Order No. L-42011/53/88-D.II (B)(Pt.) dated 8-11-1993, regarding non-implementation of new rota system and payment of shift allowance.

2. This matter was adjourned from time to time to enable the workmen to lead evidence. However, the workmen did not remain present. Finally, the matter was fixed today but the workman or either of them was not present when called out. Even the statement of claim is not filed today. Hence the reference is dismissed. No order as to costs.
Ahmedabad,

S/-
Presiding Officer

Date : 10th July, 1995.
10-7-95

नई दिल्ली, 26 जुलाई, 1995

का.आ. 2267.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार टेलीकाम के प्रबन्धतन्त्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्विष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, हैदराबाद के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 25/7/95 को प्राप्त हुआ था।

[संख्या एल-40012/234/91-आईआर(डीयू)]

के वी बी उन्नी, डेस्क अधिकारी

New Delhi, the 26th July, 1995

S.O. 2267.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal Hyderabad as shown in the Annexure, in the Industrial dispute between the employers in relation to the management of Telecom and their workmen, which was received by the Central Government on 25-7-1995.

[No. L-40012/234/91-IR(DU)]

K. V. B. UNNY, Desk Officer

ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL AT
HYDERABAD

Present :

Sri A. Hanumanthu, M.A., LL.B., Industrial Tribunal-I.
Dated : 25th day of April, 1995
INDUSTRIAL DISPUTE NO. 5 OF 1993

BETWEEN

Sri P. Pandurangaiah, C/o A. Rajamouli,
District Secretary, A.I.T.E.U. Line Staff
and Group 'O' Telephone Exchange,
Karimnagar-505 001. Petitioner

AND

The Sub-Divisional Officer, Telecom,
Karimnagar-505 001. .. Respondent
Appearances :-

Sri C. Suryanarayana, & P. Bhaskar, Advocate for the
Petitioner.

Sri P. Damodar Reddy, Addl. Standing Counsel for the
Central Government.

AWARD

This is a reference made under Section 10(1)(d) & (2A) of the Industrial Disputes Act, 1947 (hereinafter called the Act) by the Government of India, Ministry of Labour by its Order No. L-40012/234/91-IR(DU), dt. 20-1-1993 for adjudication of the industrial dispute mentioned in the schedule which reads as follows :—

"Whether the management of Sub-Divisional Office, Telecom, Karimnagar is justified in terminating the services of Sri P. Pandurangaiah w.e.f. 1-5-87 ? If not, what relief the workman concerned is entitled to ?"

This reference has been registered as Industrial Dispute No. 5 of 1993.

2. On behalf of the Petitioner, a claim statement has been filed to the following effect. The Respondent recruited and employed and petitioner as Casual mazdoor w.e.f. 1-1-1986, after verifying his employment exchange card and certificate of date of birth and educational qualifications. He was continuously employed upto the end of April, 1987 for a total period of 407 days. During the period between May 1986 to April 1987 the Petitioner had rendered 300 days of continuous service. The Petitioner was terminated from service in May 1987 by verbal orders of the Respondent. The petitioner was neither given notice nor paid notice period wages in lieu of notice as envisaged both in the orders of the Director General, P&T New Delhi as well as Section 25-F of the Act. Thus the termination of the petitioner is in violation of Section 25-F of the Act and as such it is a retrenchment within the meaning of Section 2(oo) of the Act and the same is illegal, null and void. The only reason for terminating the petitioner's service was that he was initially recruited and employed after 30-3-1985 the date on which the Director General, P&T issued orders prohibiting fresh recruitment and employment of casual mazdoors. But the Director General's order did not envisage retrenchment of any such casual mazdoors who have been recruited and employed after 30-3-1985. It envisages re-deployment of surplus mazdoors to other recruiting units which are in need of such mazdoors. The Petitioner was neither declared surplus nor was he deployed. In fact there was no dearth of work in the Respondent Sub-Division. The service of the Petitioner was wrongly terminated w.e.f. 1-5-1987. The principal Bench of Central Administrative Tribunal by its judgement dt. 4-5-1988 in O.A. No. 529/88 held that the order dt. 30-5-1985 of Director General P&T is no more valid and that the same has been upheld by the Supreme Court subsequently. Hence the petitioner prays that his retrenchment from service w.e.f. 1-5-1987 may be declared as illegal, null and void and consequently he may be reinstated with full back wages, protection of seniority in service and regularisation by absorption in the Department according to his turn in the seniority list.

3. On behalf of the Respondent-Management, a counter has been filed to the following effect. The word "recruited" used by the Petitioner in his claim statement is incorrect. Casual Mazdoors engaged is a need based one and therefore it does not guarantee after absorption in the Department of the Respondent. The Petitioner-workman worked for a period of 407 days during January, 1986 to April 1987 with breaks in his service. The Petitioner was disengaged after completion of work. The Petitioner was not a regular employees of the Respondent department. Hence no notice was issued to him before he was disengaged. As the work was over the petitioner was disengaged. As per the Director General Telecom, New Delhi orders no mazdoor should be engaged after 30-3-1985 and if engaged should be disengaged from the muster rolls. Hence the question of reinstatement of the petitioner does not arise. The petitioner was engaged purely on casual basis and he did not work on permanent basis. The petitioner had taken 3 years 8 months to represent his grievances after his disengagement. As the petitioner was not engaged prior to 30-3-1985 he cannot be absorbed in the Respondent-Department. The Petitioner cannot be re-engaged as the work is not available due to modernisation of Telecom. The petitioner has no documentary evidence to prove his claim that he is a Member of the Trade Union. There is every apprehension that the petitioner was in employment of profitable vocations all these days. He is now making an attempt to gain public employment after efflux of nearly four years. His claim is not bonafide. There are no merits in the claim of the petitioner and hence the petitioner is not entitled to any relief under this reference.

4. On behalf of the Petitioner workman W.W1 and W.W2 are examined and Ex. W1 is marked. The Petitioner-workman P. Pandurangaiah is examined as W.W1 and he deposed to the averments in his claim statement. W.W2 P. Srinivasulu is a co-worker and he deposed that at the time of the termination of the petitioner some juniors of the petitioner were allowed to continue in service as casual mazdoors and they are N. Yella. P. Murali, Chandramouli and Kondiah and that they are continuing in service even today. Ex. W1 is a book containing working days particulars of the petitioner for the period from 1-1-1986 to April, 1987. On behalf of the Respondent, M.W1 is examined and no documents are marked. M. Rajagopal Singh working as Sub-Divisional Engineer, Telecom, Karimnagar is examined as M.W1 and he deposed to the averments in the counter.

5. The points for consideration are :

- (1) Whether the action of the Respondent-Management in terminating the services of the workman P. Pandurangaiah with effect from 1-5-1987 is justified ?
- (2) To what relief the workman P. Pandurangaiah is entitled under this Reference.

6. Point (1).—Admittedly the Petitioner P. Pandurangaiah was engaged as casual mazdoor in Telecom Department of the Respondent-Karimnagar. He worked from 1-1-1986 to 30-4-1987 when his services were terminated. It is also admitted that the Petitioner was not issued any written order of appointment and he was also not served with a written order of termination of his services. It is also admitted that the Petitioner was not issued any notice prior to the termination of his services nor paid one month's wages in lieu of notice and he was also not paid any compensation while his services were terminated.

7. It is not disputed that the Petitioner comes under definition of 'workman' as defined under Section 2(s) of the Act. It is contended on behalf of the Petitioner that he Petitioner was retrenched in violation of provisions of Section 25-F and Section 25-G of the Act and as such the retrenchment of the petitioner is null and void. Section 2(o) of the Act defines retrenchment as follows :—

"Retrenchment means the termination by the employer of the service of a workman for any reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action, but does not include,—

- (a) voluntary retirement of the workman or
- (b) retirement of the workman on reaching the age of superannuation if the contract of employment between the employer and the workman concerned contains a stipulation in that behalf or
- (bb) termination of the service of the workman as a result of the non-renewal of the contract of the employment between the employer and the workman concerned on its expiry or of such contract being terminated under a stipulation in that behalf contained therein, or
- (c) termination of the service of a workman on the ground of continued ill-health."

Section 25-F of the Act prescribes the conditions precedent to retrenchment of workman and it reads as follows :—

"Conditions precedent to retrenchment of workman :—

No workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until,—

- (a) the workman has been given one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workman has been paid in lieu of such notice, wages for the period of the notice.
- (b) the workman has been paid, at the time of retrenchment, compensation which shall be equivalent to fifteen days average pay (for every com-

pleted year of continuance service) or any part thereof in excess of six months and

- (c) notice in the prescribed manner is served on the appropriate Government (or such authority as may be specified by the appropriate Government by Notification in the Official Gazette)".

Section 25-G of the Act provides procedure for retrenchment and it reads as follows :—

"Whether any workman in an industrial establishment, who is a citizen of India, is to be retrenched and he belongs to a particular category of workman in that establishment, in the absence of any agreement between the employer and the workman in this behalf, the employer shall ordinarily retrench the workman who was the last person to be employed in that category, unless for reasons to be recorded the employer retrenches any other workman."

8. It is in the evidence of W.W1 that he worked from January 1986 to April, 1987 for 407 days without any break, that he was retrenched from service w.e.f. 1-5-1987, that he was not served with any notice, nor paid wages in lieu of notice nor paid compensation. M.W1 also admits that the petitioner was engaged as casual labour on 1-1-1986, that the petitioner-workman worked till 23-3-1987 intermittently and that the Petitioner voluntarily abstained from duty from 24-3-1987, that after 3 years and 8 months the petitioner represented his grievances and requested for absorption. M.W1 admits the factum of engagement of the petitioner as casual labour, but he claimed that the Petitioner did not turn up for duty w.e.f. 24-3-1987 and thus there is voluntary abandonment of service on the part of the petitioner. As seen from the entries in Ex. W1 the Petitioner worked as casual labour w.e.f. 1-1-1986 till end of March 1987. The money order coupon for sending a sum of Rs. 184.40 towards the wage of the petitioner for the month of April 1987 has been attached for the column relating to April 1987 in Ex. W1. It is mentioned in this money order coupon that the petitioner worked for 16 days and a sum of Rs. 184.04 was sent towards his wages for the days he worked in the month of April, 1987. Obviously the petitioner's service were terminated from May, 1987. Therefore, the testimony of M.W1 that the Petitioner worked till 23-3-1987 and that the petitioner voluntarily abstained from duty w.e.f. 23-3-1987 cannot be accepted.

9. It is well settled that the definition of 'retrenchment' in Section 2(o) of the Act is a comprehensive one intended to cover any action of the Management to put an end to the employment of an employee for any reasons whatsoever except if the case falls within any of the excepted categories i.e. (i) termination by way of punishment inflicted pursuant to the disciplinary action, (ii) voluntary retirement of the workman, (iii) retirement of the workman on reaching the age of superannuation if the contract of employment between the employer and workman concerned contains a stipulation in that behalf or (iv) termination of the service on the ground of continued ill-health. Once it does not fall in any of the excepted categories, the termination of service even if it be according to automatic discharge from service under agreement would nonetheless be retrenchment within the meaning of the expression of Section 2(o) of the Act vide D. K. Yadav v. IMA Industries Ltd., (1993(3) Supreme Court Cases 259), L. Robert D' Souza v. Executive Engineer Southern Railway & Another (AIR 1982 S.C. page 9854). "Oriental Bank of Commerce v. Presiding Officer, Central Government Industrial Tribunal ANR. (1994 (II)LLJ, page 770 Rajasthan)". In the present case the services of the Petitioner-workman was terminated w.e.f. May 1987 and the said termination does not fall within any of the excepted categories under Section 2(o) of the Act. Therefore, the termination of the Petitioner amounts to retrenchment as defined under Section 2(o) of the Act.

10. The next aspect to be considered is whether the Respondent Management followed the mandatory provisions contained in Section 25-F of the Act in effecting the retrenchment of the Petitioner. The conditions precedent for effecting the retrenchment of the workman as contained in Section 25-F of the Act are applicable only for retrenchment of a workman who was in continuous service for not less than

one year. Section 25-B of the Act defines continuous service of one year. Admittedly, as seen from Ex. W1, the Petitioner had been in continuous service w.e.f. 1-1-1986 till April, 1987 i.e. more than one year period. The learned counsel for the Respondent submits that as seen from Ex. W1 the petitioner worked for 21 days in July, 1986, 25 days in August, 1986, 18 days in December, 1986, 21 days in March, 1987 and 14 days in the month of April, 1987 and thus there is no continuity of service on the part of the petitioner. The petitioner comes within the definition of "deemed to be in continuous service of one year" as defined in Sub-Section (2) of Section 25-B of the Act. Under Sub-Section (2) of Section 25-B the workman shall be deemed to be in continuous service under the employer for a period of one year if the workman worked during the period of 12 calendar months preceding the date of termination to which the calculation is to be made as actual working under the employer for not less than 120 days in the case of employee below ground and 240 days in other cases. According to the petitioner he was retrenched from service w.e.f. 1st May, 1987. Therefore the calculation of one year period has to be made precedent May 1987. As seen from the entries in Ex. W1, the total number of days worked during that 12 months period comes to 291 days. Therefore, the petitioner should be deemed to be in continuous service of one year before he was retrenched from service w.e.f. 1st May, 1987. Therefore, while retrenching the service of the petitioner, the Respondent-Management ought to have followed the mandatory provisions contained in Section 25-F of the Act. Admittedly, the petitioner was not given one month's notice indicating the reasons for his retrenchment. Nor was he paid wages for the period of notice in lieu of such notice, nor was he paid the retrenchment compensation equivalent to 15 days average pay. The Respondent-Management, thus, did not comply with the three conditions as prescribed under Section 25-F before effecting the retrenchment of the petitioner. Hence the retrenchment of the petitioner is illegal and void.

11. Further, it is obvious from the evidence on record that the Respondent-Management also failed to follow the mandatory provisions contained in Section 25-G of the Act. As earlier stated Section 25-G of the Act provides the procedure for retrenchment and it lays down that workman worked in any establishment who is citizen of India is to be retrenched and he belongs to a particular category of workman in that establishment, in the absence of any agreement between the employer and employee in this regard, the employer shall ordinarily retrench the workman who was the last person to be employed in that category, unless for reasons to be recorded the employer retrenches any other workman. It is in the evidence of W.W.2 that N. Yella, P. Murali, Chandramouli and Kondiah are all working as mazdoors and they are juniors to the Petitioner-herein and that they are continuing in service even till today while the services of the petitioner was terminated by the Respondent-Management. W.W.2 is not cross-examined by the Management. Hence his evidence goes unchallenged. Thus while retrenching the petitioner, his juniors were allowed to continue to work in the Respondent-Management. As such the retrenchment of the petitioner is also bad as it is contrary to the statutory provision of Section 25-G of the Act.

12. The learned counsel for the Respondent-Management submits that the Petitioner was engaged as casual mazdoor whenever there was work and he was disengaged when there was no work and that the Petitioner was not employed on permanent basis. As the petitioner has put in more than 240 days service within a span of one year preceding 12 months of the date of the retrenchment, the Respondent ought to have followed the procedure as laid down under Section 25-F while retrenching even the casual mazdoor. It is in the evidence of M.W.1 that the engagement of casual mazdoor is also a permanent one. M.W.1 stated in his cross-examination thus "The work on which the mazdoors are to be employed is estimated. Therefore the department knows how many mazdoors are required and for how many days. Casual labour will be employed on line-works like digging for polls, erection of wires, digging trenches for laying cables etc. It is more or less continuous till the work is completed. After execution of work of one estimate another estimate is taken up for execution. The names and

addresses of the mazdoors are recorded on the muster rolls. On the other side of the muster rolls the thumb impressions of the mazdoors are also taken. After execution of a work the casual mazdoors are expected to wait for commencement of the next estimated work. If a casual mazdoor is absent from work, he will be marked absent and his wages are not paid for that day. He will be paid for the days he actually worked. Where a casual labour is employed continuously for 6 days in a week he is given one paid weekly off". It is clear from this evidence of M.W.1 that the Petitioner herein was appointed for the purpose of working wherein estimates are prepared. Therefore the petitioner engaged in the estimated work cannot be said to be a casual labour. Further as he had put in 240 days of work within preceding 12 months, his retrenchment should be effected as per the provisions contained in Section 25-F of the Act.

13. In the light of my above discussion, I hold on Point (1) that the action of the Respondent-Management in terminating the services of the workman P. Pandurangaiah w.e.f. 1st May, 1987 is not justified.

14. POINT (2).—This point relates to the relief to be granted to the workman. It is well settled that if services of an employee is terminated in violation of the provisions under Section 25-F of the Act, the retrenchment is rendered ab initio void and the employee would be entitled to be reinstated into service along with his back wages vide *Gannon India Ltd. v. Niranjan Dass* [1984(1) S.C. Page 509] and *Maitham Chopra v. Presiding Officer, Labour Court & Ors.* [1988(4) SLR page 388]. Admittedly in the instant case, there is abnormal delay on the part of the Petitioner-workman in approaching the Assistant Commissioner of Labour in seeking redressal of his grievances. The reference has been made to this Tribunal by the Government of India by its Order dated 20th January, 1993. There is no explanation from the Petitioner for the said abnormal delay in approaching the Assistant Commissioner of Labour. Considering the circumstances of this case, I am of the opinion that the ends of justice would be met if workman is awarded reinstatement with back wages from the date of reference i.e. 20th January, 1993 made by the Government of India to this Tribunal.

15. In the light of my above discussions, I hold on Point (2) that the Petitioner-workman is entitled for re-instatement forthwith back wages from 20th January, 1993 and continuity of service. He is also entitled for protection of his seniority among the casual mazdoors employed by the Respondent-Department.

16. In the result, Award is passed directing the Respondent-Management to reinstate the workman P. Pandurangaiah into service as casual mazdoor forthwith and the Petitioner is entitled for back wages from 20th January, 1993 and continuity of service. The Petitioner is also entitled for protection of his seniority among the casual mazdoors employed by the Respondent-Management. The Respondent-Management is also directed to pay the arrears towards the back wages to the Petitioner within a period of six months from the date of publication of this Award failing which the arrear amount will carry interest at 12 per cent per annum. The parties are directed to bear their costs.

Reference is thus answered.

Dictated to the Stenographer, transcribed by him, corrected by me and given under my hand and the seal of this Tribunal, this the 25th day of April, 1995.

A. HANUMANTHU, Industrial Tribunal-I

Appendix of Evidence

Witnesses Examined for the Petitioner

W.W1 P. Pandurangaiah.

W.W2 P. Srinivasulu.

Witnesses Examined for the Respondent:

M.W1 M. Rajagopal Singh.

Documents marked for the Petitioner:

Ex. W1—Working days particulars book.

Documents marked for the Respondent :

NIL.

नई दिल्ली, 27 जुलाई, 1995

letter/reference No. 1023/89 dt. 7-5-89 is justified? If not, to what relief the workman is entitled?"

का.आ. 2268.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सैसस भारत कोकिंग कोल लि. की निचिपुर कोलियरी के प्रबंधन के संबंध विवादों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में, केन्द्रीय सरकार औद्योगिक अधिकरण (सं. 2) धनबाद के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 26-7-95 को प्राप्त हुआ था।

[संख्या एल-20012/41/91-आई मार (कोल-1)]

ब्रज मोहन, डेस्क अधिकारी

New Delhi, the 27th July, 1995

S.O. 2268.—In pursuance of Section 17 of the Industrial Disputes Act, 1947(14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, (No. 2) Dhanbad as shown in the annexure in the Industrial Dispute between the employers in relation to the management of Nichitpur Colliery of M/s. Bharat Coking Coal Ltd. and their workmen, which was received by the Central Government on 26-7-1995.

[No. L-20012/41/91 IR (COAL-I)]
BRAJ MOHAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL (No. 2) AT DHANBAD
PRESENT

Shri D. K. Nayak, Presiding Officer.

In the matter of an Industrial Dispute under Section 10(1)(d)
of the I.D. Act, 1947.

Reference No. 116 of 1991

PARTIES:

Employers in relation to the management of Nichitpur
Colliery of M/s. B.C.C.L. and their workmen.

APPEARANCES:

On behalf of the workmen : Shri B. K. Ghosh,
Member,
Executive Committee
Janta Mazdoor Sangh,

On behalf of the employers : Shri G. Prasad,
Advocate.

State : Bihar. Industry : Coal.

Dhanbad, the 20th July, 1995

AWARD

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/41/91-I.R. (Coal-I), dated, the 24th July, 1991.

THE SCHEDULE

"Whether the action of the management in dismissing the services of Shri Kesho Bhuiya, Loader, Nichitpur Colliery under Sijua Area of M/s. BCCL vide their

2. Pursuant to the reference made above the workman being represented by Janta Mazdoor Sangh filed their W.S. stating inter alia that the concerned workman Kesho Bhuiya was appointed in Sijua Area as Miner/Loader and he was posted at Sandro Bansjora Colliery in March, 1981 after meeting satisfaction of the competent authority as regards to his identity. In course of his work he was transferred to Nichitpur Colliery in the year 1984 and he worked there till 21-9-1987 and he was stopped from work from 22-9-1987 alleged that he impersonated "some other person" under Office Order No. N/1653/87 dated 22-9-87 under the signature of Superintendent, Nichitpur Colliery. The said workmen submits that after furnishing the appropriate document at the time of his appointment in March, 1981 and establishing his identity which was scrutinised by the authority concerned he was absorbed in service and thereby without specifying the name whom he has impersonated upon some vague allegations a chargesheet was submitted against him under clause 17(i)(o) and (q) of the Model Standing Orders applicable to Coal Mining Establishment but it is vague and baseless. Accordingly the enquiry was held pursuant to that chargesheet and relying upon the evidence of a person who gathered knowledge from the Loyabad Police Station. The finding of the Enquiry Officer establishing the charge is perverse specially on the ground that misconduct as alleged was first disclosed before the domestic enquiry without mentioning earlier which prevented this workman to defend his case and thereby the order of dismissed served under letter No. N/957/89 dated 2-5-89 from the Agent, Nichitpur Colliery is illegal and not based on cogent material.

3. The management in his W.S. has alleged that the concerned workman Kesho Bhuiya was appointed in the area as stated earlier and also in the capacity as submitted at Sandro Bansjora Colliery and also it is admitted that he worked there for some years and transferred to Nichitpur Colliery and thereafter it was reported that he was not a genuine workman and he was working there impersonating someone and thereby the letter as referred to above dt. 22-2-87 was given to him for furnishing certified photograph from the appropriate authority to prove his genuineness within 7 days of the receipt thereof. The concerned workman did not submit any reply to that nor he furnished any paper to remove the charges levelled against him and thereafter a chargesheet was submitted as stated in his W.S. and a departmental enquiry was held by Shri S. Kumar, the then Dy. P.M. Sijua Area after informing the concerned workman by letter No. N/2811188 dt. 21-12-88 but the concerned workman did not appear and then the matter was published in the local Newspaper Janmat dt. 16-3-89. But inspite of all these efforts the workman did not turn up. As a result the enquiry was held exparte in his absence and in view of the report of the enquiry Officer relying upon his finding the concerned workman was found guilty of the charges and he was dismissed from service with effect from 7-5-89 and his order of dismissal is justified and he is not entitled to get any relief as prayed for.

4. In the rejoinder the employer has also stated that the facts and circumstances in para-1 to para-11 are all defined and the enquiry was fair and proper and he was given full opportunity to defend his case but keeping himself absent he did not avail such opportunity.

5. In the instant case I am to consider whether the charge of impersonation was established which leads to the violation of clause 17(i)(o) and (q) as mentioned in the chargesheet of the Model Standing Orders applicable to Coal Mining Industries irrespective of the fact that the concerned workman was absent in course of enquiry and the matter was heard exparte and thereby a reasonable inference can be drawn that he did not dare to counteract the charges levelled against him. From the record I find that the enquiry was accepted to be fair and proper by the concerned workman and it leads to the point that proper procedures were followed to perform the enquiry. But it does not mean that the result of enquiry is correct one.

No doubt the enquiry was held exparte as the concerned workman remained absent inspite of all efforts from the side of the management. But the law demands that

that even in the case of *ex parte* evidence or trial the person who levels the charge must prove with cogent material and as the matter is *ex parte* heavy onus lies on him to confirm the charge after keeping no lacunae therein.

7. In order to support the charge some documents have been filed as I find from the record and those are practically chargesheet and relating to that it is stated therein that all other documents could be submitted later on.

8. The enquiry was accepted to be fair and proper. Neither parties adduced any evidence and I am to dispose of the charge or to see invoking my power under Section 11A of the I.D. Act whether the order of dismissal was found with cogent material.

9. It is an admitted fact as I find from the W.S. cum-rejoinder of the employer that this concerned workman was appointed in Sijua area as Miner/loader and posted therein in March, 1981 under the name of Kesho Bhuiya. There is no denial that at the time of his appointment the department was not satisfied. Even if it was so there is no whisper that the matter was kept open for future verification.

10. It also cannot be denied that he worked in the said colliery till 1984 and thereafter he was transferred to Nichitpur Colliery under the same name and under the same designation and he worked till 22-9-87. It is a fact that on 22-9-87 he was asked to stop from his work alleging that he had made impersonation in place of "Some other person" under Order No. N/1653/87 dt. 22-9-87.

11. It is a very peculiar feature if it was within the knowledge of the management concerned that he had impersonated some specific person in the chargesheet his name should have been disclosed but a vague statement with impersonation in place of "some other person" clearly goes to show that the management was not definite whom this concerned workman has impersonated.

Moreover, I find no cogent material how the management came to know about the factum of impersonation after working a man from 1981 to 1987 nor there is any whisper that any actual person came to claim that service. Moreover, in course of enquiry it was alleged from the side of the management that he had impersonated one Bhim Das as stated by Loyabad Thana. No paper has been produced from the side of the management that ever one Bhim Das used to work in the said colliery and he left the job and thereafter in his place this person came to work impersonating him.

12. Therefore, the only evidence which was obtained though *ex parte*, Birendra Sharma from the side of the management is that he visited Loyabad Thana and came to know that a FIR has been lodged by O.C. Loyabad P.S. that a Kesho Bhuiya is working in the name of Bhim Das but till now we are not aware of the said result nor that paper was brought at the time of enquiry as because it is a public document and a certified copy of the same could be brought by the management to substantiate the same.

13. Though it cannot be encouraged that a false person should be allowed to continue in his job at the same time if will also be unjust to encourage the management to seek a person on flimsy ground without producing any cogent material which they could prove by oral or documentary evidence.

14. The enquiry officer had ample opportunity to call for the document of the Loyabad P.S. or to bring any person of the place of Bhim Das to substantiate the fact that Kesho Bhuiya is working in place of Bhim Das and that came to the light of the management after such long lapse of time.

15. Therefore, though the evidence is *ex parte* in course of enquiry being a Court of law if it appears to be baseless and perverse and not based upon any cogent materials there is no reason to accept the fact simply for the reason that the concerned workman impersonated some person.

16. In the instant proceeding nothing has been produced from the side of the management that actually any notice was served upon the concerned workman by producing any postal receipt or any extract of newspaper to show such publication or information as alleged, was given.

17. Therefore, the last and most important point which goes to the very root of the charge is that at the very inception the management failed to disclose the name of the person whom the concerned workman had impersonated since 1981 and how it came to their notice in course of enquiry that he is impersonating Bhim Das as there is no proof in the enquiry proceeding that there is existence of any Bhim Das, as alleged, by any cogent material.

18. So simply because the enquiry was held *ex parte* there is no reason to accept the finding and to accept the order of dismissal specially under the peculiar circumstances and non-production of the cogent materials after working of the concerned workman for a pretty long time. Therefore, I cannot but hold that the order of dismissal was not based upon any cogent material but it was to some extent hasty in nature without making proper probe into the issue. Thereby the action of the management in dismissing the services of Shri Kesho Bhuiya, Loader Nichitpur Colliery under Sijua Area of M/s. B.C.C.L. vide their letter No. N/1023/89 dt. 7-5-89 is not justified. He is entitled to get the order of reinstatement and also to get back wages from the date of dismissal till the date of reinstatement with other consequential benefits. It is further ordered that the order of reinstatement and other relief would be implemented by the management within two months from the date of publication of the Award.

This is my Award.

D. K. NAYAK, Presiding Officer

नई दिल्ली, 27 जुलाई, 1995

का.आ. 2269.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स भारत कोकिंग कोल लि. की निचिंतपुर कोलियरी के प्रबंधनत्व से संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध निर्दिष्ट औद्योगिक विवाद में, केन्द्रीय सरकार औद्योगिक अधिकरण, (सं. 2) धनबाद के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 26-7-95 को प्राप्त हुआ था।

[संख्या एल-20012/287/90-आई.आर. (कोल-1)]

ब्रज मोहन, ट्रंक अधिकारी

New Delhi, the 27th July, 1995

S.O. 2269.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (11 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, (No. 2), Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Nichitpur Colliery of M/s. Bharat Coking Coal Ltd. and their workmen, which was received by the Central Government on 26-7-95.

[No. L-20012/287/90-IR(Coal-I)]

BRAJ MOHAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, (NO. 2) AT DHANBAD

PRESENT :

Shri D. K. Nayak, Presiding Officer.

In the matter of an Industrial Dispute under Section 10(1)(d) of the I. D. Act, 1947
Reference No. 84 of 1991

PARTIES :

Employers in relation to the management of Nichitpur Colliery of M/s. B.C.C.L. and their workmen.

APPEARANCES :

On behalf of the workmen : Shri B. K. Ghose, Member, Executive Committee, Janta Mazdoor Sangh

On behalf of the employers : Shri G. Prasad, Advocate.

STATE : Bihar INDUSTRY : Coal
Dhanbad, the 20th July, 1995

AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10 (1)(d) of the I. D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012 (287)/50-I.R. (Coal-I), dated, the 14th March, 1991 :

SCHEDULE

"Whether the action of the management of Nichitpur Colliery under Sijua Area of M/s. Bharai Coking Coal Ltd. in dismissing Sri Kishun Bhuiyan from service vide their letter No. N/963/89/dt. 2-5-89 is justified? If not to what relief the workman concerned is entitled to?"

2. For disposal of the reference as stated above let me state the facts appearing from the W.S.-cum-rejoinder filed by the workmen and the management.

3. The concerned workman through its union had submitted the W.S. stating the following facts.

4. The concerned workman Kishun Bhuiyan got appointment in Sijua area as Miner/Loader and posted at Sendra Bansjora colliery in March, 1981 and that appointment was given by the management being fully satisfied about his identity. He worked there till 1984 and was transferred to Nichitpur colliery in the same post but he was stopped from working from 22-9-87 upon the allegation that he is working in place of "some other person" under office order No. 1653/87 dated 22-9-87 from the Superintendent, Nichitpur Colliery. It is a case of the workman that he submitted relevant document before the management at the time of his attending in the serving and those were found to be genuine on scrutiny. He has challenged the ground for issuing chargesheet issued under clause 17(d)(o) and (q) of the Model Standing Orders on the ground that the allegation of impersonating "some other person" without describing the definite person is vague and wild allegation. It is stated further that the Enquiry held by the enquiry officer is baseless, perverse as it was decided upon the evidence of the Presenting Officer who examined himself as the only witness and thereby the finding of the guilt upon such solitary statement is perverse and the order of dismissal from service under letter No. N/957/89 dated 2-5-89 from the Agent, Nichitpur Colliery is illegal and no action can be taken on the result of such perverse finding of the Enquiry Officer and the order of dismissal is unjustified and he is entitled to get the order of reinstatement with full back wages and other consequential benefits.

5. The employers in their W.S. stated inter alia that the concerned workman Kishun Bhuiyan got his employment fraudulently in the year 1981 in Sendra Bansjora Colliery under BCLL and worked there for three years wherefrom he was transferred to Nichitpur Colliery. After coming to know of the fact from the side of the management a letter dated 17-8-87 was issued directing him to submit certified photograph to prove his bona fide but he did not comply and again he was asked to produce certificate from B.D.O. which was also not complied by him. Another chance was given for production of certificate but he failed to prove his genuineness and then the management by letter No. 19653/87 dated 22-9-87 directed to submit certificate of his genuineness and simultaneously he was stopped from work till submission of such certificate. As he failed to do so the management held him to be impersonator and issued a chargesheet vide chargesheet No. M/139/88 dated 21-1-88 but he did not submit any explanation and then the management conducted an enquiry against him and he was given full opportunity to cross-examine the management's witnesses, examine himself and his witness as his defence and also to prove document in support of his case, to wipe out the charge levelled against him. After holding the enquiry proper he was found to be guilty of impersonation and he was dismissed from service by letter No. N/963/89 dated 2-5-89 after approval of the competent authority and as there was no violation of principles of natural justice in such domestic enquiry Kishun Bhuiyan is not entitled to get any relief.

6. In the rejoinder the case of the W.S. of the workman was denied and practically something was repeated as it was stated earlier. In the rejoinder the facts stated by the management was denied.

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7. In the instant case by order No. 29 dated 19-5-95 the enquiry was admitted to be fair and proper. Now the question which requires my determination whether the said Kishun Bhuiyan impersonated any person as alleged and the enquiry proceeding was perverse in nature as contended.

8. From the record I find that from the side of the employers the enquiry proceeding, order of dismissal and notice of enquiry, representation of Kishun Bhuiyan were filed.

9. Under Section 11A of the I.D. Act this Tribunal has every power to consider whether the enquiry is perverse or whether it was based on the materials and the order of dismissal was in accordance with the principles of natural justice. After careful scrutiny of the materials available in the enquiry proceeding now it is an admitted position that Kishun Bhuiyan has also accepted that he is not only known as Kishun Bhuiyan but also known as Dev Narayan Chouhan and he is the son of Ram Prasad. It is also not disputed by him that he was a man of Monghyr and thereafter he changed his address to Azamgarh where he shifted.

10. The only witness who is in the enquiry proceeding as it appears from the enquiry proceeding is that One Babulal Turi had had deposed that he came to Loyabad Police Station and came to know that the said Police Station had lodged a case against Kishun Bhuiyan alleging that he impersonated one Devnarayan. It is the stand of Kishun Bhuiyan that he is known as Devnarayan too and he is the son of Ram Prasad and he was a man of Monghyr and came to Azamgarh. So at the time of entry into the service he gave his address of Monghyr though his present address is at Azamgarh. It appears that B.D.O., Lalganj, Azamgarh has issued a certificate in favour of Kishun describing him Kishun alias Devnarayan son of Ramprasad which is dated 27-2-87. No doubt I cannot tell there is very strong material in support of the contention of the concerned workman but when the domestic enquiry was started by the management after long lapse of 6 years allowing him to serve under them the onus lies upon the management to establish the fact that he has impersonated any person as alleged.

11. A peculiar feature which comes in the instant case is that while the chargesheet was issued alleging that he impersonated some person but it was not disclosed from the side of the management actually whom he impersonated.

12. It is a very peculiar aspect that a charge of impersonation was levelled but whom he impersonated that was not known to the management. In the instant case in course of enquiry proceeding it was revealed that Kishun is also known as Devnarayan which has been disclosed by him but not discovered by the management. It is not unknown that a man may possess two names one is called by local person and the other is a name which is incorporated in different registers such as school certificate etc.

13. Now the question is in the management is not definite whom the concerned workman has impersonated, can he be charged for such wild allegations of impersonation as it has been done by the management in the course of domestic enquiry. Moreover, the presenting officer himself has been examined in the instant case but only visited the Loyabad Police Station and has deposed that he came to know that Loyabad Police Station has stated a case of impersonation against this Kishun Bhuiyan but curiously enough no such document is forthcoming to this Court nor it came before the Enquiry Officer which could have been easily brought by the management for establishing the factum of impersonation. If the relevant document be not produced as stated by the witness himself can any body be punished for the charge of impersonation simply relying upon the statement of a person who derived knowledge from the Loyabad Police Station. It is also curious enough that no report was obtained from Loyabad Police Station nor any document is forthcoming from the side of the management that whom this Kishun Bhuiyan has impersonated and under which circumstances he was absorbed in the year 1981.

14. Therefore, considering the said materials and for want of cogent materials I have no hesitation to hold rather I am constrained to hold that the enquiry proceeding was conducted most illegally manner and the result of such enquiry is perverse which requires interference by this Tribunal invoking its power under Section 11A of the I. D. Act.

15. In view of the discussion made above and in absence of the materials as referred to above this Tribunal has no other alternative than to hold that the action of the management of Nishitpur Colliery under Siua area of M/s. B.C.C.L. in dismissing Shri Kishun Bhuiyan from service under letter No. N/963/89 dated 2-5-89 is not justified and the concerned workman is entitled to be reinstated from the date of dismissal in his original post with full back wages and other consequential benefits.

Accordingly, the management is directed to reinstate the concerned workman in his earlier post with payment of full back wages and other consequential benefits from the date of his dismissal to the date of his reinstatement within two months from the date of publication of the Award.

This is my Award.

D. K. NAYAK, Presiding Officer

नई दिल्ली, 28 जुलाई, 1995

का.ग्रा. 2270.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस ई सी एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 26/7/95 को प्राप्त हुआ था।

[सं० एल-22012/144/89-आईआर(सी-II)]

राजानाल, डेस्क अधिकारी

New Delhi, the 28th July, 1995

S.O. 2270.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure in the industrial dispute between the employers in relation to the management of S.E.C. Ltd. and their workmen, which was received by the Central Government on 26-7-95.

[No. L-22012(144)/89-IR(Coal-II)]
RAJA LAL, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, JABALPUR (MP)

Case Ref. No. CGIT/LC(R)(231)/1989

BETWEEN

Shri K. N. B. Rao, Clerk Grade I, represented through the General Secretary, National Colliery Workers Federation, Sohagpur Area, Post Dhanpuri, District Shahdol (MP).

AND

The General Manager, M/s. S.E.C.L., Sohagpur Area, Post Dhanpuri, District Shahdol (MP).

PRESIDED IN: By Shri Arvind Kumar Awasthy.

APPEARANCES:

For Workman: Shri D. L. Agarwal.

For Management: Shri A. K. Shastri, Advocate.

INDUSTRY: Coal Mines. DISTRICT: Shahdol (MP).

AWARD

Dated, 12th July, 1995

This is a reference made by the Central Government, Ministry of Labour, vide its Notification No. L-22012(144)/89-IR(Coal-II) dated 7-11-1989, for adjudication of the following industrial dispute.

SCHEDULE

"Whether the action of the management of General Manager, Sohagpur Area of M/s. S.E.C. Ltd. in not regularising their workman Sri K. N. B. Rao, Clerk Grade I in the post of Timber Inspector and payment of difference of wages w.e.f. 1-9-85 is legal and justified? If not, to what relief the workman concerned is entitled?"

2. Case of the workman is that the management deputed the workman in Timber Cell in October, 1985 and he has been continuously discharging the duties of Sr. Timber Inspector since 1-9-1986. The workman has alleged that the management of W.C.L. had created the post of Sr. Timber Inspector and Timber Inspector on the request of the Area Manager vide their letter No. WCI/PER/807/2691-705 dated 28-2-1978; that the workman is entitled for regularisation on the post of Sr. Timber Inspector and he is also entitled for the difference of wages.

3. The case of the management is that the workman, Shri K. N. B. Rao, has never worked as Timber Inspector and he was doing the job of purely clerical nature; that the post of Timber Inspector and Sr. Timber Inspector was created in the year 1978 as per Circular dated 28-2-1978 issued by the management of W.C.L., Headquarter at Nagpur and after that the post was abolished. Management has alleged that in Cadre Scheme there is no post of Timber Inspector and as such the claim of the workman for the post of Sr. Timber Inspector and consequential benefits arising out of it is baseless.

4. Terms of reference was the issue in the case.

5. On the date of evidence the workman remained absent but affidavit was filed by the management of Sh. U. K. Gupta.

6. The Cadre Scheme was formulated in the year 1984 and from the Cadre Scheme for ministerial staff (Ex. M/1), it is clear that there was no designation of Sr. Timber Inspector. On the basis of the Cadre Scheme the promotion and appointment in Coal India for the various posts are made. The Cadre Scheme has come into force in the year 1984 and as such post of Timber Inspector was created on the basis of the Circular of the Coal India has come to an end. Consequently, the claim of the workman for his regularisation on the post of Timber Inspector w.e.f. 1-9-86 is against the Cadre Scheme of the year 1984 and as such it is not tenable.

7. From the perusal of Ex. M/4 and Ex. M/5, it is clear that the workman accepted his promotion from clerical grade II to the Clerical Grade I and then Clerical Grade I to special grade Senior Clerk. This shows that the workman has given up his claim for the post of Timber Inspector. However, in view of the Cadre Scheme of the year, 1984 dated 17-7-84 it is palpable that the claim of the workman for his regularisation to the post of Timber Inspector is not tenable.

8. The action of the management referred to in the reference is just, proper and legal. Workman is not entitled to any relief. Parties to bear their own costs.

ARVIND KUMAR AWASTHY, Presiding Officer

नई दिल्ली, 28 जुलाई, 1995

का.ग्रा. 2271.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डब्लू.सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 26/7/95 को प्राप्त हुआ था।

[एल-22012/83/94-आईआर(सी-II)]

राजानाल, डेस्क अधिकारी

New Delhi, the 28th July, 1995

New Delhi, the 28th July, 1995

S.O. 2271.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Jabalpur as shown in the Annexure in the industrial dispute between the employers in relation to the management of WC. Ltd. and their workmen, which was received by the Central Government on the 26th July, 1995.

[No. L-22012/83/94-IR(C-II)]

RAJA LAL, Desk Officer

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR (MP)

Case Reference No. CGIT/LC(R)(118)/1994

BETWEEN

Shri Insarao Dhanajirao, represented through the Vice President, Bhartiya Koyala Khadan Mazdoor Sangh (Aff. to Bhartiya Mazdoor Sangh) No. 542, Dr. Munje Marg, Congress Nagar, Nagpur (MS)-440012.

AND

The Sub-Area Manager, Pipla Group Collieries, Western Coalfields Ltd., PO : Pipla, Tah. Saoner, District Nagpur (MS).

PRESIDED IN : By Shri Arvind Kumar Awasthy.

APPEARANCES:

For Workman—None.

For Management—Shri A. K. Shasi, Advocate.

INDUSTRY : Coal Mines. DISTRICT : Nagpur (MS).

AWARD

Dated: July 14, 1995

This is a reference made by the Central Government Ministry of Labour, vide its notification No. L-22012/83/94-IR(C-II) dated 2nd August, 1994, for adjudication of the following industrial dispute:

SCHEDULE

"Whether the action of the management of Western Coalfields Ltd. Patansawangi Collieries (under Pipla Group Collieries) in not granting the promotion to Shri Indarao Dhanajirao from Asstt. Store Keeper Gr. I w.e.f. 1st March, 1987 and offering the chance to his three juniors is justified. If not, to what relief the workman is entitled to?"

2. The workman has not appeared inspite of repeated notice sent, the statement of claim has not been filed. Management has prayed to close the case and pass a no dispute award. As the workman is not turning up and is not interested in pursuing the case, no dispute award is hereby passed. No order as to costs.

ARVIND KUMAR AWASTHY, Presiding Officer

नई दिल्ली, 28 जुलाई, 1995

का.आ. 2272.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एफ सी आई के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 26/7/95 को प्राप्त हुआ था।

[एन-42012/116/86-D-II(B)]

राजा लाल, डेस्क अधिकारी

S.O. 2272.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Jabalpur as shown in the Annexure in the industrial dispute between the employers in relation to the management of F.C.I. and their workman, which was received by the Central Government on the 26th July, 1995.

[No. L-42012/116/86-D-II(B)]

RAJA LAL, Desk Officer

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR (MP)

Case Ref. No. CGIT/LC(R)(138)/1987

BETWEEN

Shri Lakhanlal Sahu, Kapanaharapara, Near Jain Dairy Farm, Kapa, District Raipur (MP).

AND

The District Manager, Food Corporation of India, Kapa, District Raipur (MP).

PRESIDED IN : By Shri Arvind Kumar Awasthy.

APPEARANCES:

For Workman—Shri M. R. Chandra, Advocate.

For Management—Shri S. K. Rao, Advocate.

INDUSTRY : FCI.

DISTRICT : Raipur (MP)

AWARD

Dated, July 14, 1995

This is a reference made by the Central Government, Ministry of Labour, vide its notification No. L-42012/116/86-D-II(B) dated 4th August, 1987, for adjudication of the following industrial dispute:

SCHEDULE

"Whether the action of the management of Food Corporation of India, Kapa, District Raipur (MP) in not treating Shri Lakhanlal Sahu, Ex-Clerk as its employee and terminating his services w.e.f. 30th May, 1986 is justified? If not, to what relief is the workman concerned entitled to?"

2. The case of the workman is that he has worked as a Clerk from September, 1983 to 29th May, 1986 in the Food Corporation of India at Kapa; that the management has issued certificate and letters to the workman while he was working as daily wages Clerk; that the management has illegally terminated his service by oral order dated 30th May, 1986. The workman has prayed for reinstatement with back wages.

3. The case of the management is that the workman, Shri Lakhanlal Sahu, was not a workman and he has not worked as daily wages Clerk in the office of the Food Corporation of India. Management has alleged that the appointment as a clerk to the workman was never issued nor he was called for interview and his name was not sponsored by the Employment Exchange. He has not the required qualification i.e. Graduate for the appointment as a clerk. It is further alleged by the management that one Lakhan Lal Sahu, Watchman, was appointed on 7th December, 1977 and he was working in the office of the F.C.I. at Kapa office and the workman who has similar name has prepared false documents to show that he was working as a clerk in the office. Management has stated that the workman, Shri Lakhanlal Sahu, was working with Vishnu Prasad Sharma who was a Transport Contractor of F.C.I. for the period 1985 and 1986; that the said Vishnu Prasad Sharma has issued the certificate that the workman, Lakhanlal Sahu, was his employer in the year 1983 to 1986. Management has submitted that there was no employer and employee relationship between the workman and the management and the workman has fraudulently obtained certain

documents and has forged them and he is guilty of committing offence of cheating. The management has prayed that the question of terminating the services of Shri Lakhanlal Sahu is justified and the reference be answered in favour of the management.

4. Terms of the reference was made the issue in the case.

5. Workman has examined himself and he has produced seven documents, marked Ex. W/1 to Ex. W/7. Management has examined K. M. Rao, Umed Singh and Mahendra Singh.

6. Workman, Shri Lakhanlal Sahu, has stated that he was appointed on 1st September, 1983 as a Clerk in the establishment of Food Corporation of India, at Kapa, and he used to receive the payment on daily wage basis of about Rs. 77 per week and he had worked there till 29th May, 1986. As against this, Shri K. M. Rao, Assistant Manager in the Security and Vigilance Department at Kapa Depot, has stated on oath that Shri Lakhanlal Sahu was never employed in Kapa Depot and he has never worked in Kapa Depot on daily wages and that the workman is taking the advantage of similarly named Lakhan Lal Sahu who was posted as a Watchman at Kapa Branch. Management has produced Certificate marked Ex. M/1. It is issued by Shri Vishnu Prasad Sharma, Contractor of F.C.I. From the Certificate Ex. M/1, it is clear that the workman, Shri Lakhanlal Sahu, was engaged by Shri Vishnu Prasad Sharma as casual labour on daily wage during the period of contract from 1984 to 1986. Learned Counsel for the management has cross-examined the workman on the basis of the vital document Ex. M/1 and the workman, Shri Lakhanlal Sahu, has clearly admitted in para 14 of his cross-examination that Certificate Ex. M/1 was given to him. The explanation of workman is that in the year 1983 he has worked on daily wages with the Contractor, Shri Vishnu Prasad Sharma. The workman has not given any explanation regarding the fact that why the Certificate by Shri Vishnu Prasad Sharma was given that he has worked from 1984 to 1986 on daily wages. Consequently on the basis of Certificate Ex. M/1 statement of the workman, Shri Lakhanlal Sahu, on oath, clearly falsified and on the other hand, Ex. M/1 fortifies the statement of Shri K. M. Rao.

7. Workman has produced Certificate Ex. M/3. In the Certificate it is written that Lakhanlal Sahu has intermittently worked for two years as casual worker. This document Ex. W/3 filed by the workman makes the statement of Shri Lakhanlal Sahu doubtful that he had continuously worked as a clerk in the office of the FCI. Consequently, Certificate Ex. M/1 issued by Shri Vishnu Prasad Sharma and the document filed by the workman Ex. W/3 demolishes the case of the workman that he had worked for two years from 1984 to 1986 in the F.C.I. Depot at Kapa. The statement of Shri K. M. Rao are corroborated by the affidavits of Shri Umed Singh and Shri Mahendra Singh, Shri Umed Singh was working as Asstt. Security Officer in F.C.I. Depot from 1981 to 1986 and Shri Mahendra Singh was working as Asstt. Manager from 1982 to 1990 at Kapa Depot and both the witnesses have clearly stated that the workman, Shri Lakhanlal Sahu, was never employed in the Kapa Depot and he has never work as daily wage clerk in the office. There is not an iota of evidence to discredit the statements on oath by the responsible officers of F.C.I. S/Shri Umed Singh and Mahendra Singh. As against this, the workman has not examined and witness to prove that he was appointed and he was working in the F.C.I. Depot at Kapa during the year 1984 to 1986. The workman has not given explanation for not examining witnesses to prove his case. Consequently, on the basis of the reliable statement of the management's witnesses, S/Shri Umed Singh, K. M. Rao and Mahendra Singh, it is proved that the workman has not worked from 1984 to 1986 in the office of the F.C.I. at Kapa Depot.

8. Workman, Shri Lakhanlal Sahu, has stated that certificates and testimonials were given by the D.M. & A.M. of F.C.I., Kapa, of their own accord from time to time in recognition of his honest and faithful services and Ex. W/1, W/2 & Ex. W/3 are the copies of those documents. Workman has further alleged that he used to maintain the office

record of the F.C.I. Kapa and photo copies of these documents are Ex. W/4 and Ex. W/5.

9. Shri K. M. Rao has stated on oath that the register and records of the F.C.I. which are alleged to be in the handwriting of the workman were not maintained by Shri Lakhanlal Sahu and the entries therein are not of Shri Lakhanlal Sahu, but by Shri R. K. Saha, a clerk of F.C.I. Shri Mahendra Singh, Assistant Manager, has also stated in his affidavit that the documents Ex. W/1, Ex. W/5 and Ex. W/7 are not signed by him or by his officers and they are forged. Nothing exists in the cross-examination of Shri Mahendra Singh to discredit his statement. Shri K. M. Rao and Shri Mahendra Singh are the responsible officers of the F.C.I. and no reasons exists to hold that they are in any way interested in giving false evidence. The workman has not examined any witness to prove the authenticity of his documents marked as Ex. W/1 to Ex. W/7 and to prove that the concerned registers of the F.C.I. were maintained and signed by him. Consequently, I have no hesitation in coming to the conclusion, on the basis of the statement of S/Shri Umed Singh, K. M. Rao and Mahendra Singh, that the documents Ex. W/1 to Ex. W/7 filed by the workman are of highly suspicious nature.

10. The Senior Regional Manager is the competent authority to appoint the clerk and the minimum qualification required for the post of clerk is that he should be Graduate. The workman has admitted that at the time of his alleged appointment he was not Graduate. The workman has not filed appointment letter or the letter by which his name was sponsored by the Employment Exchange. Workman has also not file the interview call letter. The recruitment for the post of clerk is done by following the specific procedure. It is never done orally. Consequently, from the fact that the workman has not filed the material documents i.e. the letter of the Employment Exchange etc. is a ground to raise the adverse inference against the workman that he was not appointed and he has not worked from 1984 to 1986 in the Food Corporation of India at Kapa.

11. Shri K. M. Rao has clearly alleged that the documents filed by the workman Ex. W/3, Ex. W/7 and registers Articles H & G were forged by the workman. In view of the aforesaid findings, it is not necessary to go in detail into the allegation made by the management's witnesses, Shri K. M. Rao and Shri Mahendra Singh that the documents were fabricated by the workman.

12. Consequently, on the basis of the Certificate Ex. M/1 and the oral evidence produced by the management and looking to the highly suspicious nature of documents filed by the workman, I hold that the workman, Shri Lakhanlal Sahu, was not appointed and he has not worked as daily wages clerk.

13. As such, Food Corporation of India was justified in not treating the workman as its employee. The issue of termination of services of the workman does not arise as there was no employer-employee relationship between the claimant and the management.

14. Consequently, management was justified in not treating Shri Lakhanlal Sahu as its clerk and its employee. Reference is answered in favour of the management. Workman is not entitled to any relief. Parties to bear their own costs.

ARVIND KUMAR AWASTHY, Presiding Officer

नई दिल्ली 28 जुलाई, 1995

का.आ. 2273.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार डब्ल्यू सी एल के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर से पंचाक्ष को प्रकाशित करती है, जो केन्द्रीय सरकार को 20 जुलाई, 1995

को प्राप्त हुआ था।

[एल-22012/8/86-डी (V)]

राजा लाल, डेस्क अधिकारी

New Delhi, the 28th July, 1995

S.O. 2273.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure in the industrial dispute between the employers in relation to the management of W.C. Ltd. and their workmen, which was received by the Central Government on 26-7-95.

[No. L-22012/8/86-D.V.]

RAJA LAL, Desk Officer
ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, JABALPUR (MP)

Case Ref. No. CGIT/LC(R)(59)/1987

BETWEEN

Shri Ganga Singh, represented through the President,
M.P. Colliery Workers Federation, Bistrampur
Branch, P.O. Bistrampur Colliery, District Surguja
(MP).

AND

The Sub-Area Manager, Bistrampur Group of Mines of
WCL, P.O. Bistrampur Colliery, District Surguja
(MP).

PRESIDED IN : By Shri Arvind Kumar Awasthy.

APPEARANCES :

For Workman : Shri G. P. Sharma.

For Management : Shri A. K. Shasi, Advocate.

INDUSTRY : Coal Mines. DISTRICT : Surguja (MP).

AWARD

Dated, July 14, 1995

This is a reference made by the Central Government, Ministry of Labour, vide its notification No. L-22012(8)/86-D.V. dated 23rd April, 1987, for adjudication of the following industrial dispute :—

SCHEDULE

"Whether the dismissal of Shri Ganga Singh S/o Shri Mohar Sai, Ex-Loader of Kumda Colliery of WC Ltd. vide letter No. BJ/KI/13/85/2566, dated 23rd February, 1985 issued by the Colliery Manager, Kumda Colliery of Bistrampur Group of Mines of WCL, District Surguja is justified? If not, to what relief is the workers entitled to?"

2. Admitted facts of the case are that Shri Ganga Singh was a workman as Loader in Kumda Colliery, Bistrampur, W. C. Ltd.

3. The case of the workman is that he fell sick very often due to wound on his shoulder; that the workman was referred to the District Hospital for treatment and there he had undergone operation for wound on his shoulder; that on account of his illness the workman could not put the regular attendance and that the charge-sheet was issued against the workman on the ground of habitual absenteeism and proper opportunity was not granted to the workman to defend his case and his services were terminated; that the finding of the enquiry officer is against the fact on record and punishment awarded to him is excessive.

4. The case of the management is that the workman was highly irregular in attendance and in the year 1980 he worked for 110 days, in 1981 116 days, in 1982 100 days, in 1983 168 days and in the year only for 88 days; that in

spite of the repeated warning letters the workman did not show any improvement; that the charge-sheet was issued on 12-5-85 to the workman for his unauthorised absence during the period January 1984 to December 1984; that the workman admitted the charges; that on account of his habitual absenteeism the impugned order on 23-2-85 of dismissal was issued to the workman. The workman is not entitled to any relief.

5. Following are the issues in the case :

ISSUES

1. Whether the domestic/departmental enquiry is proper and legal?
2. Whether the punishment awarded is proper and legal?
3. Whether the management is entitled to lead evidence before this tribunal?
4. Whether the termination/action taken against the workman is justified on the facts of the case?
5. Relief and costs.

6. Issue No. 1 and 3 : Learned predecessor vide order dated 7-1-1992 has held that the full opportunity was given to the workman to contest his case in the domestic enquiry and issue No. 1 and 3 were answered in favour of the management.

7. Issue No. 2 and 4 : Charge against the workman was that he was absent without prior permission from duty during the period of January 1984 to December 1984. The attendance register was produced during the domestic enquiry and Shri S. Biswas and Shri B. N. Dube were examined to establish that the workman remain absent during the relevant period.

8. From the perusal of the enquiry papers, it is clear that the workman has not filed any document to show that his absence from duty was on account of his illness. No explanation was given by the workman of the fact that why he remained absent without prior intimation or application. The charge against the workman was that he was a habitual absentee. The domestic enquiry on the misconduct of absenteeism was held against the workman. Charge-sheet dated 16-10-78 (Ex. M/7) is for long absence of the workman in the year 1978. The workman made a written submission, Ex. M/8, seeking apology and giving the assurance that he will not repeat such misconduct in future. Warning after the submission of Ex. M/8 was issued, but the workman again committed the misconduct of absencing himself from duty in the year 1979 for which another warning letter Ex. M/11 was issued and enquiries were initiated against him but they were dropped on account of apology tendered by the workman. From the above discussion, it is clear that the charges of long absenteeism and habitual absenteeism are fully proved against the workman.

9. The management was justified in terminating the services of the workman who was guilty of gross misconduct of remaining absent in spite of repeated warnings. Issue No. 2 and 4 are answered in favour of the management.

10. Issue No. 5 : Workman is not entitled to any relief. Reference is answered in favour of the management. Parties to bear their own costs.

ARVIND KUMAR AWASTHY, Presiding Officer

नई दिल्ली, 28 जुलाई, 1995

का.आ. 2274—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एफ सी आई के प्रबन्धन के संबंध में उनके कर्मचारियों के बीच अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण धनबाद के पंचदश को प्रकाशित करती है, जो केन्द्रीय सरकार को 26-7-95 को प्राप्त हुआ था।

[एल-22012/40/एफ/92 आईआर(डी-II)]

राजा लाल डेस्क अधिकारी

New Delhi, the 7th July, 1995

S.O. 2274.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947) the Central Government hereby publishes the award of the Central Government Industrial Tribunal Bhanbad as shown in the Annexure in the industrial dispute between the employers in relation to the management of F. C. I. and their workmen, which was received by the Central Government on the 26-7-95.

[No. L-22012/40/F/92-IR(C-II)]

RAJA LAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

PRESENT

Shri D. K. Nayak,
Presiding Officer.

In the matter of an industrial dispute under Section 10(1)(d) of the I. D. Act, 1947.

REFERENCE NO. 28 OF 1992

PARTIES :

Employers in relation to the management of Food Corporation of India, Bhagalpur and their workmen.

APPEARANCES :

On behalf of the workmen : Shri V. Kumar, authorised representative.

On behalf of the employers : Shri S. R. Sharma, District Manager, FCI Bhagalpur.

State : Bihar.

Industry : Food.

Dated, the 17th July, 1995.

AWARD

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1) (d) of the I. D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-22012/40/F/92-I. R. (C-II), dated, the 14th September, 1992.

SCHEDULE

"Whether the action of the Management of F. C. I. Bhagalpur in retrenching the concerned workman Shri Umesh Kumar Singh in contravention of Section 25F of I. D. Act and denying reinstatement with full back wages and regularising his service is legal and justified. If not, to what relief he is entitled ?"

2. To meet the reference which is in English is whether the action of the management of FCI Bhagalpur in retrenching the concerned workman Shri Umesh Kumar Singh in contravention of Section 25F of I. D. Act and denying reinstatement with full back wages and regularising his services is legal and justified ? If not, what relief he is entitled to ?

3. The parties i.e. both the management and the workman have filed their respective W.S. and rejoinder.

4. The concerned workman in his W.S. has stated that he was employed by the management of FCI at Bhagalpur, as casual workman on 6-4-81 for performing duties of subordinate cadre like regular Class IV workman of the management and in the said capacity he worked till 14-4-88. Thereby he worked for more than 240 days within 12 calendar months as it is provided under Section 25B of the I. D. Act, 1947. It is stated further that the concerned workman was stopped from work with effect from 15-4-88 without serving any notice nor paying any notice pay. It is also stated that no enquiry was conducted for any misdeed alleged to be done by him and thereby the said retrenchment is

in violation of Section 25F of the I.D. Act, 1947 and it leads to his demand in continuation of his service with back wages from the date of discharge itself.

5. It is further stated in his W.S. that though he was deprived from service with regularisation as Class IV staff about 75 workmen even junior to him who worked in the same capacity were regularised as Class IV workman in terms of Circular dt. 6-5-87 thereby a gross injustice has been caused in case of his workman and so he pressed for award in his favour holding the action of the management of FCI in retrenching him from the casual workman is illegal and in violation of Section 25F of the I. D. Act. He claims for reinstatement with full back wages with regular scale of pay of Class IV with effect from 15-4-88 with other benefits of the same scale of pay to which he is entitled to.

6. The management in reply to the reference and in support of their contention has submitted that the concerned workman Shri Umesh Kumar Singh was engaged as casual worker at Bhagalpur as and when he would be required and he was not engaged as against any permanent vacancy nor he used to perform any permanent jobs. The main contention in the W.S. of the management is that he was a close associate of N. L. Gupta another casual worker who was employed in house keeping section as and when required and it was discovered in March, 1988 that one sugar dealer lifted 16 bags of sugar from ARDC/Phase I godown and 14 bags of sugar on 22-2-88 against forged release order alleged to have been issued by Assistant Manager, Depot of ARDC/Phase I Bhagalpur. Also relating to the said release order false Bank draft and other particulars were entered and the signature of the Assistant Manager were forged thereby the management suffered a loss of said sugar bags. Their act was fraudulent and amounted to theft fraud, dishonesty and against both a criminal case was started which was pending in Criminal Court at Bhagalpur and thereby this workman was not suitable for absorbing nor he was entitled to get so according to the nature of the job and so he was terminated as his services was no longer required.

7. In the rejoinder the workman has stated that the factum of statement that he was employed as and when required is a myth. Actually he was continuously working from his appointment till his retrenchment and thereby his work was of permanent nature and absorbing other workmen of the same nature the management had caused a great injustice to him and as he stands on the same footing with the employees who had been absorbed and regularised this workman is also entitled to get relief as prayed for.

8. In the instant case the management had examined two witnesses who are K. C. Biswas and A. K. Roy and the concerned workman had deposed himself in support of his case. Besides that the workman had relied upon several documentary evidence which have been marked according to the law.

9. Now let me consider the case of the parties with reference to the written argument submitted by the management and the oral argument submitted by the workman.

10. In the written argument the main contention of the management is that this concerned workman was not the worker employed against permanent vacancy. Actually he was a casual worker as and when he was required and he used to be engaged at railway siding by FCI Bhagalpur and the document marked Ext. W-4, W-5 and W-6 would go to support it. It is also submitted therein that document marked Ext. W-7 will also go to show that he was a casual worker worked at railway siding and he was not engaged for any specific work as against specific permanent or temporary post. According to them his engagement was of general type and the order No. 41 dt. 14-4-80 which has been submitted by the workman does not apply in case of this workman and the statement of K. C. Biswas, MW-1 and A. K. Roy, MW-2 examined on behalf of the management would go to support it and from their statement it would appear that as against permanent vacancies the names are called for from the employment exchange office and their appointments are given after issuing appointment letter to work as casual or temporary worker against some permanent posts. Accordingly

it was submitted that he was not a casual employee to perform the duty of a permanent workman of Class IV cadre and they have relied upon a case law reported in 1995 Lab I. C. page 37 (P. C. Amha-vers-Assistant Director of Tea Development Tea Board and others) where their Lordships or Honble Kerala High Court have decided that to get over the confusion and after introduction of Section 2(6b) (bb) Act, 49 of 1984 the position of casual employees become clear and it was decided that casual employees cannot claim regularisation nor the termination amounts to retrenchment. It was also supported in a case reported in 1994 Lab I. C. Page 1197 (Madhyamik Siksha Parishad-vers-Amil Kumar) that where it has been observed that simply for the reasons of completion of 240 days in a year does not entitle to any workman to get an order of regularisation if the work is not against permanent vacancy. It is stated in the written argument that as the concerned workman does not fulfil the requirement, his termination cannot be considered to be retrenchment nor he can be treated to be a casual worker against employees of Class IV or of any category and thereby with reference to Ext. W-10 he cannot get the order of regularisation as claimed nor he can get help of the circular dt. 6-5-87 of the management. It is further stated in the said written argument that he was involved in forging the document for lifting sugar being accompanied by worker of same nature and for the same a case in criminal court is pending and this also unfits the concerned workman to be regularised in the same post.

11. To meet the argument as submitted in the form of written argument by the management at the very outset it was submitted from the side of the workmen that the management has come with a false story that this workman is not suitable for absorbing in service as he is an accused person in a criminal case for lifting sugar with another person and for the same a criminal case is pending in the Criminal Court at Bhagalpur. My attention has been drawn to Ext. M-1 itself which shows the xerox copy of the petition of the complainant filed in the Court of Bhagalpur where the complainant is K. C. Biswas and accused is Md. Azim. I have carefully perused the said complaint and there are 19 paragraphs but nowhere a single word has been used against this workman aiming that he was directly or indirectly involved in such allegation in which the said criminal case was lodged.

12. Therefore, it is myth to say that any criminal case was instituted against this concerned workman.

13. I also find that the management has failed to prove by producing any iota of evidence that any departmental proceeding was started against him or any enquiry proceeding was made to such misconduct as alleged nor it is stated in the order of termination that for the said Act he was terminated.

14. Therefore, the ground of non-suitability of accepting him in the post as claimed for his mis-deed does not hold good.

15. It is not disputed rather it is supported from the document marked in this case that this concerned workman was engaged on 6-4-81 as casual worker of Class IV grade and worked till 14-4-88.

16. It was attempted to show that he was engaged as and when he was required. Even if it is accepted it goes to show that he worked more than 240 days in every 12 calendar year months for the last 7 years before his termination or retrenchment whatever it may be which took place on 14-4-88. It is also admitted that he was not given any notice for such termination nor he was given any notice pay before that.

17. Therefore, it is accepted for this case that the concerned workman completed 240 days work in 12 calendar months which entitles the casual worker to be regularised if he worked as against permanent vacancy. I have carefully gone through the case law cited by the management reported in 1995 Lab I.C. page 37 and I am of the opinion that the facts of the case are not identical with the present case as because in the said case the casual employee was employed for a certain term on contract basis and the question arose whether on expiry of the contract period he

is entitled to be regularised or he can claim so and whether it is retrenchment within the ambit of I.D. Act. But in the instant case there is no evidence that the concerned workman was employed on contract basis. On the other hand it is the case of the management himself that he used to be employed as and when he could be required and therefore, the work for a contract basis does not come in but he used to be employed as a casual employee which is generally done as against the work which is to be done by a permanent worker. As because loading and unloading etc. in a railway siding in FCI management cannot be considered to be a stray act but this work is needed regularly for the purpose of loading and unloading of commodities which FCI deals in.

18. The evidence of A. K. Roy, MW-2 goes to show that he was posted at Bhagalpur from 1986 to 1990 and similarly Mr. K. C. Biswas, MW was also posted from 1987 to 1991.

19. Now let me see the Ext. W-2 where the management has decided to absorb the casual worker in different categories as mentioned therein who has completed three months service on 2-5-86. Ext. W-3 does not reveal for what reason the concerned workman was released. Ext. W-4 to W-6 itself prove that the concerned workman completed 240 days work in 12 calendar months. Ext. W-7 is the certificate in favour of the concerned workman given by the Officer of the Management in the year 1984 where it is stated that he is working from 6th April, 1981 as casual worker in the railway siding of FCI and he is very honest and sincere. Ext. W-8 is the appointment order in Cat. IV of FCI in respect of three persons who raised their dispute before the ALC(C) and they were also the casual workers. Ext. W-9 is a letter addressed to the Assistant Manager directing engagement of two casual labours of railway siding for supplying drinking water and sending dak to the District Officer and other office with a maximum of 50 heads in a month. Ext. W-10 is the vacancy position as it stood on 30-9-93 which is not disputed by the management. Ext. W-11 is the term of settlement between the management and the union where the union claimed regularisation of Shri Jagdish Mahato who was disengaged from service with effect from 1-7-89 and as he fulfilled the condition of Section 25F he claimed to be regularised with full wages but in terms of settlement the management reinstated the concerned workman as Class IV staff by certain period and the union agreed to forego the back wages relating to the period of retrenchment and the union also agreed to forego the seniority and it was settled that his seniority shall be reckoned in Class IV from the date of issue of order of re-instatement and thus the matter was settled.

20. Therefore, these documents are clear enough that even the casual workers working in the railway siding were absorbed as Class IV staff after settling with the union with certain conditions as mentioned in the Ext. marked W-11 who started working since 1-1-84 though his workman started working in the year 1981. Accordingly it is held that even the genuine person of the same category was absorbed and regularised as Class IV staff for completion of the terms as required.

21. Therefore, though from the case law cited by the management in their written argument to establish the fact of completion of 240 days itself does not entitle a workman to be regularised was not applied in case of others who is even junior to this workman.

22. It is not encourageable that the management would make discrimination in the matter of policy and they will absorb or retrench as per their sweet will but everybody should be placed in the same footing and same treatment would be given to the workman of same category if it is not otherwise established.

23. Only the ground which was urged very much in the instant case is that the concerned workman was dishonest and he was involved in lifting sugar forging documents and creating false drafts. But the Ext. M-1 wipes out the same as because the criminal case for the said incident was instituted as against one Md. Azim and in the said petition which already I have referred to, not a single word has been whispered against this workman and in that case it would be clear to accept at this stage that he was not suitable for the said ground and in my opinion it is after thought and it is brought only to justify their act which they did illegally by absorbing even a junior person in the service.

24. However, considering the materials referred to and available on the record I am of the opinion that the con-

cerned workman was retrenched illegally though he was entitled to be regularised as per circular of the management itself and in view of the settlement as reflected in Ext. W-11 and thus an order should be passed for his reinstatement with the following terms and conditions.

25. It is held that the retrenchment of the concerned workman is unjustified. The management is directed to regularise the concerned workman as Class IV staff in view of the vacancy list submitted by the workman and not challenged by the management within one month from the date of publication of the Award.

D. K. NAYAK, Presiding Officer
Central Govt. Industrial Tribunal
(No. 2), Dhanbad.

नई दिल्ली, 28 जुलाई, 1995

का.आ. 2275—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुमरण में केन्द्रीय सरकार एस ई सी एल के प्रवन्ध के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निश्चित औद्योगिक विवाद में केन्द्रीय सरकार हैदराबाद के पंचपट को प्रकाशित करती है जो केन्द्रीय सरकार को 26-7-95 को प्राप्त हुआ था।

[एस-22012/111/92 आईआर (सी-II)]

राजा लाल, हेस्क अधिकारी

New Delhi, the 28th July, 1995

S.O. 2275.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal Hyderabad as shown in the Annexure in the industrial dispute between the employers in relation to the management of S.C.C. Ltd. and their workmen, which was received by the Central Government on 26-7-1995.

[No. L-22012/111/92-IR (C-II)]
RAJA LAL, Desk Officer

ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL AT

HYDERABAD

PRESENT :

Sri A. Hanumanthu, M.A., LL.B., Industrial Tribunal-I.

Dated, 22nd day of May, 1995

Industrial Dispute No. 46 of 1992

BETWEEN

Md. Iqbal Sharif,
S/o Md. Abid Sharif,
aged 26 years, workman in
Singareni Collieries Company Limited,
Yellandu, Khammam District ..Petitioner

AND

Singareni Collieries Company Limited,
Yellandu, Division, Yellandu,
Khammam District represented by its
General Manager (P) ..Respondent

APPEARANCES :

S/Sri G. Bikshapthy, G. V. Sagar, N. V. Raj and G. Ravi Mohan, Advocates—for the Petitioner.

M/s. K. Srinivasa Murthy, G. Sudha and P. V. K. Kishore Babu, Advocates—for the Respondent.

AWARD

This is a reference made by the Government of India, Ministry of Labour, by its Order No. L-22012/111/92-IR (C-II) dated 20-7-1992 under Section 10(1)(d) and (2-A) of the Industrial Disputes Act, 1947 (hereinafter called as the Act)

for adjudication of the Industrial Dispute annexed in the Schedule which reads as follows :

"Whether the action of the Management of M/s. Singareni Collieries Co. Ltd., Yellandu, in not confirming Sri Md. Iqbal Sharif, Badli worker as Pharmacist in Grade 'D' from the date his services were utilised as such without being paid the wages and allowances of the post is justified? If not, to what relief the workman is entitled to?"

This reference has been registered as Industrial Dispute No. 46 of 1992 on the file of this Tribunal. After service of notices, the parties appeared in this Tribunal and they are being represented by their counsel.

2. On behalf of the Petitioner Mr Iqbal Sharif, a claim statement has been filed to the following effect :

One Md. Abid Sharif was an employee of the Respondent-Company and on his medical invalidation his son Md. Iqbal Sharif, the petitioner herein, was appointed as Badli worker w.e.f. 2-4-1987. The petitioner passed Diploma in Pharmacy from Board of Intermediate Education, Government of Andhra Pradesh and got registered his name in the Employment Exchange of Khammam District. At the time of his appointment as badli worker, the appointing authorities perused all the educational qualifications and Technical qualifications of the Petitioner and also considered the Employment Exchange Card. Along with the petitioner, 25 other candidates were appointed as badli worker. Keeping in view of the technical qualification of Diploma in Pharmacy the petitioner was posted with the Deputy Medical Superintendent, Yellandu Collieries Hospital, Yellandu, while the remaining 25 candidates were sent to underground mines and other departments. The services of the petitioner has been utilised by the Management as Pharmacist since 2-4-1987 and he has been performing his services to the best satisfaction of his superiors. The Petitioner has been attending to the following work of Pharmacist in nature which a badli worker ought not to do :

- Daily issuing drugs and other than drugs to various wards and Departments.
- Attending of Out Patient Drug slips and Issuing Drugs to the Patients.
- Receipts entering into Receipts Register.
- Drugs entering in Bin Cards, which was brought from different Pharmaceuticals Distributors.
- Preparation of Local Purchase Requisitions and seeking for sanction.
- Deputed for Local Purchase to out of stations like Hyderabad, Vijayawada etc.
- Issuing of T.B. Cards (Tuberculosis) and maintain of T.B. Drugs Register.
- Preparation of Medical Stores Monthly Statistics.
- Attending and Assisting in Medical Stores Correspondence i.e. writing letters to different Pharmaceutical Distributors.
- Preparation of Annual Drug Requirements/Hospital Furniture requirements of Medical Stores.
- Handovering of monthly quota drugs to various dispensaries and Medical Out Patient Departments, Surg. O.P., Gynaec Out Patient Department etc.

The Petitioner submitted a representation to the authorities, through proper channel, in March 1988 and on 10-11-1988 requesting to consider his candidature for the appointment as Pharmacist/Compounder in the Respondent-Company. The Chief Medical Officer advised him to submit an application to the Director (Personnel) by his letter dated 21-7-1989.

Accordingly the Petitioner submitted his representation dt. 25-7-1989 to the Director through proper channel. In response to the Petitioner's representation, the Director by his letter dated 3-10-1989 informed the Petitioner that there is no provision to appoint him directly as Compounder and he was advised to apply as and when the vacancies are notified. The Respondent published an advertisement in 'Indian Express' dated 6-11-1989 calling for applications for the post of Compounders-D Grade from the candidates possessing the qualifications of S.S.C. Plus Diploma in Pharmacy duly recognised by the Government of Andhra Pradesh with one year experience in recognised hospital. The Petitioner applied for the said post on 7-11-1989 as an inside candidate through proper channel enclosing all his academic and technical qualification certificates. But he was not called for the interview. On enquiry the Petitioner was informed that the diploma in Pharmacy from Board of Intermediate Education was not considered as equivalent to Diploma in Pharmacy from the Technical Board of Education, Andhra Pradesh for the post of Pharmacist/Compounder 'D' Grade Post. The request of the Petitioner that the Diploma in Pharmacy from the Board of Technical Education, A.P. has also been recognised by the Government in G.O. No. 428 Education dated 23-9-1985 was also not considered. The petitioner raised a dispute before the Assistant Labour Commissioner (Central) Vijayawada and joint discussions were held from time to time and final discussion took place on 19-3-1992. At the time of the said discussion, the Union brought to the notice of the Conciliation Authorities that one Sri P. Surender has been working as Compounder 'D' Grade in Area Hospital, Bellampally and he has been promoted to 'C' Grade Compounder and his qualifications is also Diploma in Pharmacy from Board of Intermediate Education, Andhra Pradesh. But the Management bluntly refused to consider the case of the petitioner reiterating that the candidates who have passed Diploma in Pharmacy through Intermediate Board, Andhra Pradesh are not eligible for appointment in hospitals or dispensaries of the Respondent-Company. Thereafter, the Assistant Labour Commissioner (Central) Vijayawada submitted his failure report to the Government of India, Ministry of Labour, New Delhi and thereafter this reference has been made. During the conciliation proceedings, the Management also intentionally transferred the petitioner from hospital to Polampalli Mines on 7-4-1992 and thus resorted to victimising the petitioner in violation of Sections 33 and 9A of the Industrial Disputes Act, 1947. On interference by the Assistant Labour Commissioner, Vijayawada, the said illegal transfer has been cancelled. The Government of Andhra Pradesh and Government of India recognised Diploma in Pharmacy from Board of Intermediate, A.P. as equivalent to Diploma in Pharmacy of Board of Technical Education. The petitioner has been performing his services of a pharmacist since his appointment on 2-4-87 without any adverse remarks from the authorities. The Respondent-Management has shown discrimination against this petitioner. Hence the petitioner prays this Tribunal to direct the Respondent-Management to confirm the petitioner as Pharmacist 'D' Grade from the date of his services and also to direct the Respondent to pay the wages and allowances of the post of Pharmacist 'D' Grade from the date when his services were utilised as such.

3. On behalf of the Respondent-Management, a counter has been filed to the following effect:

The Petitioner's father Md. Abid Sharif who was working as Lamp Room Fitter opted for voluntary retirement on medical grounds seeking employment to his son Md. Iqbal Sharif, the petitioner herein. Accordingly Md. Abid Sharif was discharged from service and his son, the petitioner herein, was appointed as Badli worker w.e.f. 2-4-1987. Along with the petitioner, a batch of 25 other dependents were also given appointment on the same ground and all of them were posted to work underground. The petitioner approached the officials and requested that he may be temporarily provided employment on surface. Hence he was posted in Area Hospital as Badli worker. The allegations in the claim statement that because the petitioner possessed the technical qualification of Diploma in Pharmacy from the Board of Intermediate Education at the time of his appointment, the authorities posted him in Area Hospital is incorrect. The petitioner was never interviewed for the post of Pharmacist which is a Selection Post as the qualification possessed by the Petitioner is not recognised to hold the post of Pharmacist in the Hospitals and Dispensaries of the Respondent-Company.

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Since the petitioner is not possessing the requisite qualifications, he cannot make a claim for the post of Pharmacist. The allegation that since the date of his appointment the petitioner's services have been utilised as Pharmacist is incorrect. The Petitioner has been working as Badli worker only in Yellandu Area Hospital. The Respondent is always having regular Pharmacist as per the sanctioned manpower to carry out the jobs. There is neither any vacancy nor there is necessity to take the badli worker to discharge the said duties. The Petitioner herein has been working under the Pharmacist to look after the neatness of the stores, arranging the medicines in proper places, cleaning, dusting etc. and according to miscellaneous jobs in the office. Such jobs are also carried out by other educated mazdoors. As the petitioner was interested to learn job, he was allowed to make some entries in the registers and records. But that does not mean that the petitioner was discharging the duties enumerated in his claim statement. The Respondent has no necessity to utilise the services of the petitioner as Pharmacist. The petitioner was informed that unless he possessed the requisite qualifications, he will not be eligible to apply for the said post. The prescribed qualification cannot be changed for the sake of the petitioner. As the Petitioner's qualification is not recognised in employment and company's hospitals, he was not called for the interview. The educational qualifications possessed by the petitioner will not make him eligible for the Compounder's post in the Respondent hospital. The letter dated 2-9-1986 issued by the Pharmacy Council of India declares that the Intermediate (Vocational Course in Pharmacy) Diploma Course in Pharmacy conducted by certain Institution to be an approved course of study for the purpose of admission to an approved examination for Diploma in Pharmacy. It further declares Intermediate (Vocational Examination in Pharmacy) Diploma Examination in Pharmacy held by the Board of Intermediate Education, Andhra Pradesh, Hyderabad to be an approved examination for the purpose of qualifying for registration as a Pharmacist under the Pharmacy Act, 1948. From the circular candidates possessing Diploma in Pharmacy issued by the Board of Intermediate Education are only qualified to register themselves as Pharmacist but it does not give any indication about the recognition by the Government of Andhra Pradesh. As per G.O. No. 428 dated 23-9-1985 issued by the Government of Andhra Pradesh the pass out of Intermediate Vocation Courses are only eligible for appointment in Medical and Health Department of Food and Health, Government of Andhra Pradesh. They are not eligible for appointment as Pharmacist in Hospitals and Dispensaries. It is true that conciliation proceedings were held. It is true that B. Surinder was appointed as Pharmacist in the Company post on selection through written test and interview held in February 1983 and he was also possessing certificate in Diploma Course in Pharmacy issued by the Board of Intermediate Education. The said Surinder might have been allowed to appear for selection to the post of Pharmacist since no G.O. was issued by the Government of Andhra Pradesh in this regard at that time. Subsequent to the issue of G.O. No. 428 dated 23-9-1985 none of the candidates in Diploma Course in Pharmacy issued by the Board of Intermediate Examination was allowed to appear for the post of Pharmacist in the Colliery Hospitals. The facts and circumstances of the case of B. Surender are totally different from the facts and circumstances of the Petitioner's case and the Petitioner cannot compare his case with that of B. Surender. No badli worker is having a right to make a demand to post him on surface to suit to his convenience basing upon his qualification. After receiving the transfer order, the petitioner applied for sick leave and he did not choose to act upon the transfer order. At that stage, the Petitioner approached the Assistant Labour Commissioner, Vijayawada and the Respondent-Company kept the orders of transfer in abeyance to avoid any complications. The Management has not violated the provisions under Sections 33 and 9A of the I.D. Act and the Petitioner was not victimised as alleged by him. If the Petitioner acquires the eligible qualification he will be considered for future vacancies as internal candidate. The petitioner was appointed on compassionate ground as his father retired from service on health ground before his retirement. The concession which has been extended to him has not been given to other unemployed who are less fortunate and this provision cannot be extended further to his own convenience. The reference is bad in law. All the reliefs claimed by the petitioner are outside the scope of the reference. The Petitioner's request for confirmation as Pharmacist which is a Selection post on the ground that he has a Certificate and worked in the

Hospital is neither tenable or valid in law. Badli workers post is not a feeder post for promotion as Pharmacist. The claim as made is not maintainable. The Respondent never extracted the work of Grade 'D' Pharmacist from the petitioner. The Petitioner-carried out the work of a badli worker and received wages as badli worker. There are no merits in the Petitioner's claim. Hence the Petitioner is not entitled for any relief under this reference.

4. On behalf of the Petitioner, a rejoinder has been filed to the following effect:

The allegation on the counter that the Petitioner was appointed to work on the surface at his request is false. The office order appointing the Petitioner clearly shows that the Respondent Company appointed the Petitioner to work at Hospitals w.e.f. 2-4-1987. The Management appointed the Petitioner at the Hospital with a view to extract the work of Pharmacist. At the time of the appointment of the Petitioner in the Hospital, there was one Pharmacist at Yellandu Area Hospital and thus there was a clear vacancy. Hence the Petitioner was posted in the Area Hospital. The Petitioner possessed the requisite qualification. G.O. Ms. No. 428 dated 24-9-1985 clearly permits the appointment of candidates possessing Diploma in Pharmacy in the Government Department and also Government undertakings. At present there are vacant posts of Pharmacist in the Respondent Company. When once the candidate is registered under A.P. Pharmacy Council Rules, 1955 it is deemed to be the recognition of Government of Andhra Pradesh as the Government of A.P. delegated its power to A.P. Pharmacy Council. Hence the petitioner is a registered Pharmacist and his qualification is recognised by the Government of Andhra Pradesh. Sri B. Surender possessed the same qualification as that of the petitioner. The Respondent appointed B. Surender as Pharmacist but he did not like to appoint the petitioner and thus discrimination has been shown against the Petitioner.

5. On behalf of the Petitioner W.W.1 is examined and Exs. W1 to W27 are marked. The workman Md. Iqbal Sharif got himself examined as W.W.1 and he deposed to the averments in his claim statement. On behalf of the Respondent-Management, M.W.1 and M.W.2 were examined and Exs. M1 to M6 are marked. M.W.1 is the Deputy Personal Manager working in the Respondent-Company and M.W.2 is the Personal Manager working in the Respondent-Company and they deposed to the averments to the counter. The details of the documents Exs. W1 to W27 and M1 to M6 are appended to this Award.

6. The points for consideration are as follows:

- (1) Whether the action of the Respondent-Management in not confirming the petitioner Sri Md. Iqbal Sharif. Badli Worker as Pharmacist in Grade 'D' from the date of his service is justified?
- (2) To what relief the workman is entitled?

7. Point No. (1).—(i) The admitted facts as revealed from the evidence on record are as follows:

The Petitioner Md. Iqbal Sharif was appointed as Badli worker on compassionate ground w.e.f. 2-4-1987. His father Md. Abid Sharif worked as Lamp Room Fitter. He opted for voluntary retirement on medical grounds seeking employment for his son, the petitioner herein. Alongwith the Petitioner, 25 other dependants of the workmen were also appointed as Badli workers on compassionate grounds. Ex. M1 is the order of appointment issued to the Petitioner herein. Ex. M2 is the order of appointment for the other 25 persons employed as Badli workers on the retirement of their parents on voluntarily retirement scheme. Ex. M3 is the recommendation made by the Selection Committee for appointing the petitioner herein as Badli worker. The petitioner herein was posted to work in Area Hospital, Yellandu while the other 25 persons who were appointed alongwith him were posted to work in Polamvalli Mine underground.

(ii) The petitioner passed the Diploma course in Pharmacy in the examination conducted by the Board of Intermediate Education, A.P. Hyderabad in April, 1986. Ex. W2 is the pass certificate in Diploma Course in Pharmacy. The petitioner also registered as Registered Pharmacist with A.P. Pharmacy Council w.e.f. 1-10-1986 and Ex. W1 is the said

Registration Certificate. Though appointed as Badli worker in the Area Hospital, Yellandu, the Petitioner had been attending to purchase and collection of medicines from the outstations like Hyderabad on the instructions of R.M.O. Yellandu. Under Exs. W3 to W12 and W15 the Petitioner was deputed by the Resident Medical Officer, Yellandu and Deputy Medical Superintendent to collect the medicines from outstations and to renew the licence for denatured spirit etc., under Ex. W13 the petitioner was deputed by the Deputy Medical Superintendent, Colliery Hospital, Yellandu Area to go to Vijayawada for purchase of specialised drugs. Under Ex. W14 the Petitioner was deputed to go to Hyderabad for local purchase of medicines, X-ray films by the Deputy Medical Superintendent, Yellandu Area Hospital. It is also in the evidence of the petitioner as W.W.1 that he used to attend to out patient drug slips and issue drugs to the patients enter the receipts in the Receipt Register, and used to prepare annual drugs requirement and other furniture requirement of the medical stores, and that he used to prepare monthly statistics regarding medical stores.

(iii) Under Ex. W16 and Ex. W17 the Petitioner submitted applications through proper channel to the Chief Medical Officer, Singareni Collieries Company Limited to appoint him as Compounder in view of his educational and technical qualifications. Under Ex. W20 the petitioner was advised by the Chief Medical Officer to send up an application to the Director (Personnel) along with true copies of the certificates for the post of Compounder. Accordingly the Petitioner submitted his application through proper channel to the Director (P.A. & W.), Singareni Collieries Company Limited, Kothagudem enclosing his educational technical qualification certificates. As seen from Ex. W24 the Respondent Company issued a notification calling for applications for filling up 20 posts of Pharmacists along with for other posts. Ex. W23 is the publication of the said notification in the "Indian Express" dated 6th November, 1989. The educational qualifications for the post of Pharmacist as seen from Ex. W23 and Ex. W24 is "S.S.C. Plus Diploma in Pharmacy (2 years Course) duly recognised by the Government of Andhra Pradesh and one year experience in recognised hospital is preferred". In pursuance of that notification, the Petitioner submitted his application Ex. W22 dated 7th November, 1989 as inside candidate for the post of Pharmacist enclosing the true copies of the certificates. Admittedly the Petitioner was not called the interview for the said post though he possessed the requisite qualification as mentioned in the notification. Thereafter, the Petitioner raised a dispute before the Assistant Labour Commissioner (Central), Vijayawada under the original of Ex. W26. He held the conciliation proceedings and as the matter could not be settled, the Assistant Labour Commissioner, Vijayawada submitted his failure report. Ex. W27 is a copy of the said report. It is also admitted that one B. Surender who is a Diploma holder in Pharmacy issued by the Board of Intermediate Education had been appointed as Compounder Grade D in Area Hospital, Bellampally and he has been promoted to 'C' Grade on 20th September, 1988 under the original of Ex. W25.

8. The learned counsel for the Petitioner submits that though the Petitioner is appointed as Badli worker, he has been discharging the duties of a Pharmacist in the Area Hospital, Yellandu from the date of his appointment and that the Petitioner possessed the requisite qualification as a Pharmacist and therefore, the Petitioner should be confirmed as a Pharmacist and he must be paid the salary as a Pharmacist. The learned counsel for the Petitioner further contends that the Respondent Company failed to consider the application of the Petitioner for the post of Pharmacist when he applied for the same under Ex. W22 in pursuance of the Notification issued by the Respondent Company and that the refusal of the Company to consider his application is discriminatory and therefore the Petitioner is entitled to be appointed as Pharmacist in view of his educational and technical qualifications. The learned counsel for the Respondent Management on the other hand contends that the Petitioner was appointed as Badli worker on compassionate ground and he was not appointed as Pharmacist and therefore there is no question of confirming the Petitioner as Pharmacist. The learned counsel for the Respondent further contends that the Petitioner does not possess the requisite technical qualification i.e. Diploma in Pharmacy issued by

the Board of Technical Education, A.P., Hyderabad and as such the Petitioner's application was not considered for the post of Pharmacist.

9. It is not disputed that the Petitioner was appointed as badli worker on compassionate ground as his father took voluntary retirement on medical ground with a request to give posting to his son. He was appointed as Badli worker with effect from 2nd April, 1987. It is also not disputed that by the date of his appointment as badli worker, the Petitioner had passed S.S.C. and he also obtained Diploma in Pharmacy issued by the Board of Intermediate Education, Hyderabad. In spite of the said technical qualification of possessing Diploma in Pharmacy, as seen from Ex. W3, the selection Committee made a recommendation for appointing the Petitioner as Badli worker only. It is true that as seen from Exs. W3 to W15 the Petitioner was deputed by the Deputy Medical Superintendent, Colliery Hospital, Yellandu Area to go to outstations for purchasing medicines renewal of licences for denatured spirit, purchase of X-ray films etc. Obviously the Petitioner was sent on such errands just because he possessed the Technical qualification of Diploma in Pharmacy and the petitioner might have been attending to some of the duties as Pharmacist in the Area Hospital, Yellandu. Simply because some duties of a Pharmacist have been entrusted to the petitioner who is a badli worker it does not mean that the Petitioner is entitled to be confirmed as Pharmacist which is a Selection post. As seen from Ex. W24 the Selection for the post of Pharmacist will be done on completion of a written test and interview. Therefore simply because the Pharmacist who is a badli worker had attended to some of the duties of Pharmacist he is not entitled to be confirmed in the post of Pharmacist.

10. There is much force in the contention of the learned counsel for the Petitioner that non-consideration of the application of the Petitioner for the post of Pharmacist having requisite qualification is not justified. As earlier stated, in pursuance of the publication in the 'Indian Express' dated 6th November, 1989 (Ex. W 23) the Petitioner applied for the post of Pharmacist under Ex. W 22. It is in the evidence of the Petitioner as W.W1 that he was not called for the interview or for written test. It is in the evidence of W.W1 that the technical qualification of Diploma in Pharmacy issued by the Board of Intermediate Education is not recognised by the Respondent-Company and as such the Petitioner was not called for the written test or for interview. It is also in the evidence of M.W1 that Diploma in Pharmacy issued by the Board of Technical Education, Government of Andhra Pradesh alone is recognised for consideration for the post of Pharmacist. As seen from Exs. W23 and W24 the qualification and experience required for the post of Pharmacist is S.S.C. plus Diploma in Pharmacy (2 years Course) duly recognised by Government of Andhra Pradesh and one year experience in a recognised hospital is preferred. It is not specifically mentioned in these documents that the Diploma in Pharmacy is the Diploma in Pharmacy issued by the Board of Technical Education and not that of Diploma in Pharmacy issued by the Board of Intermediate Education. What is required is that the said Diploma in Pharmacy should have been duly recognised by the Government of Andhra Pradesh. In the instant case, it is not disputed that the Petitioner herein has obtained the Diploma in Pharmacy issued by the Board of Intermediate Education, Government of Andhra Pradesh, Hyderabad. Ex. W2 is the said certificate. As seen from Ex. W21 a pass in Pharmacy examination held by Board of Intermediate Education, Andhra Pradesh, Hyderabad is sufficient for qualifying for registration as Pharmacist under the Pharmacy Act, 1948. As seen from Ex. W1 the Petitioner also got registered with Andhra Pradesh Pharmacy Council on 1st October, 1986 and is seen from this document he is registered Pharmacist w.e.f. 1st October, 1986. Ex. M4 is the copy of G.O.Ms No. 428 Education dated 23rd September, 1985 issued by the Government of Andhra Pradesh recognising the course of Diploma in Pharmacy issued by the Board of Intermediate Education for the post of Pharmacist Grade I for appointment in Medical and Health Department, Government of Andhra Pradesh. Thus

the Diploma in Pharmacy issued by the Board of Intermediate Education has been recognised by the Government of Andhra Pradesh in G.O.Ms. No. 428 Education dated 23rd September, 1985. There is no substance in the plea taken by the Respondent-Company that the Petitioner does not possess the Technical Qualification in the sense that the Petitioner does not possess Diploma in Pharmacy issued by the Board of Technical Education, Andhra Pradesh, Hyderabad. As earlier stated, it is nowhere mentioned in the Notification Ex. W24 and Ex. W23 that the Technical Qualification required is Diploma in Pharmacy issued by the Board of Technical Education and not Diploma in Pharmacy issued by the Board of Intermediate Education. The said Diploma in Pharmacy possessed by the candidate should have been recognised by the Government of Andhra Pradesh. In the instant case, as earlier stated, the Diploma in Pharmacy issued by the Board of Intermediate Education possessed by the Petitioner has been recognised by the Government under G.O.Ms. No. 428 Education dated 23rd September, 1985 (Ex. M4).

11. Further, the Respondent-Company is admitting that one B. Surender has been appointed as Pharmacist in Category B based on his technical qualification as Diploma in Pharmacy issued by the Board of Intermediate Education, i.e. the qualification possessed by the Petitioner herein, in 1983 and he has been promoted to 'C' grade as seen from Ex. W25. The learned counsel for the Respondent submits that the appointment of B. Surender was earlier to the passing of G.O.Ms. No. 428 (Ex. M4) and therefore, the Petitioner cannot compare himself with B. Surender. But as seen from the said G.O.Ms. No. 428 (Ex. M4) there is nothing to disqualify the petitioner. It is nowhere mentioned in this G.O. that it is not applicable for appointment as Pharmacist in the Respondent-Company or in any other Department. As earlier stated, the Government of Andhra Pradesh recognised the Diploma of Pharmacy issued by the Board of Intermediate Education for appointment in Government Departments and Government Undertakings. The Respondent-Company failed to submit any other circular or order to the effect that G.O.Ms No. 428 is not applicable for appointments in the Respondent Company. The Respondent-Company also failed to substantiate its plea that the persons who possessed Diploma in Pharmacy issued by the Board of Technical Education alone are eligible for the post of Pharmacist. In the absence of such evidence, it cannot be said that the petitioner herein does not possess the requisite technical qualification for the post of Pharmacist. Obviously, the Respondent-Management showed discrimination in the case of the Petitioner as it failed to consider his application for the post of Pharmacist though he possessed the requisite qualification for the said post.

12. In the light of my above discussion, I hold on the point that the action of the Management of the Respondent in not confirming the petitioner as Pharmacist in Grade 'D' from the date of his appointment as Badli worker is not justified. But I further hold that the action of the Respondent Management in not considering the application of the petitioner for the post of Pharmacist though he possessed the requisite qualification is not justified.

13. POINT 2.—This point relates to the relief to be granted to the Petitioner under this reference. In view of my finding on Point No. 1 that the action of the Management in not considering the application of the Petitioner for the post of Pharmacist is not justified, the Respondent Management is directed to consider the application of the petitioner for the post of Pharmacist as he possessed the requisite qualification for the said post and select him for the said post if he is otherwise suitable, within three months from the date of publication of this Award. The Petitioner is also directed to submit himself for the written test and interview if he is called for to appear by the Respondent-Management.

14. In the result, Award is passed stating that the action of the Management of the Respondent-Company is not confirming Md. Iqbal Sharif, the petitioner herein, as Pharmacist to Grade 'D' from the date of his service as Badli worker is justified, but the action of the Management of the Respondent-Company in not considering the application of the Petitioner for the post of Pharmacist as he possessed the requisite qualification is not justified. The Respondent-Management is directed to consider the application of the Petitioner for

the post of Pharmacist as he possessed the requisite qualification for the said post and to select him for the said post if he is otherwise suitable within three months from the date of publication of this Award. The parties are directed to bear their costs.

The reference is answered accordingly.

Dictated to the Stenographer, transcribed by him, corrected by me and given under my hand and the seal of this Tribunal, this the 22nd day of May, 1995.

A. HANUMANTHU, Industrial Tribunal-I

Appendix of Evidence :

Witnesses Examined for the Petitioner :

W.W1—Mohd. Iqbal Sharif.

Witnesses Examined for the Respondent :

M.W1—P. Pal Charles.

M.W2—G. Ilaiyah.

Documents marked for the Petitioner :

Ex. W1 1-10-86—Licentiated Registered Pharmacist Certificate of the Petitioner from A.P. Pharmacy Council.

Ex. W2 1-10-86—Pharmacy Certificate by the Petitioner.

Ex. W3 to W15—Certificate of proof of service.

Ex. W16 23-3-88—Certificate of the petitioner for appointment as Compounder.

Ex. W17 23-3-88—Copy of representation of the petitioner.

Ex. W18 23-3-88—Copy of representation of the Petitioner.

Ex. W19 13-12-91—Life Member subscription voucher of the Petitioner.

Ex. W20 21/22-7-89—Copy of letter from the Respondent to the Petitioner.

Ex. W21 1-12-88—Xerox copy of G.O.Rt. No. 1706 of Education (TE-I) Deptt.

Ex. W22 20/9-11-89—Copy of application of the petitioner for the post of Compounder 'D' grade in Respondent.

Ex. W23 6-11-89—Paper publication in Indian Express.

Ex. W24 6-11-89—Copy of Advertisement.

Ex. W24 20-9-88—Office order of the G.M. of Respondent.

Ex. W26 24-1-91—Xerox copy of representation of the petitioner to the Regional Labour Commissioner (C).

Ex. W27 19-3-92—Copy of Minutes of Conciliation.

Documents marked on behalf of the Respondent :

Ex. M1 1-4-87—Appointment letter given to Iqbal Shariff.

Ex. M2 31-3-87—List of the 21 workers appointed on voluntary retirement death cases.

Ex. M3 31-3-87—Recommendation letter to post as Badli worker.

Ex. M4 23-9-85—G.O. Rt. No. 428 of Education (TE) Department.

Ex. M5 23-9-85—Persons working as Pharmacist in Yellandu Area.

Ex. M6 8-1-91—Minutes of Conciliation dated 8th January, 1991.

A. HANUMANTHU, Industrial Tribunal-I

नई दिल्ली, 28 जुलाई, 1995

का.आ. 2276.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बैंक ऑफ़ महाराष्ट्र के प्रबन्धतंत्र के संरक्षित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में, केन्द्रीय सरकार औद्योगिक अधिकरण नई दिल्ली के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 27-7-95 को प्राप्त हुआ था।

[संख्या एल-12012/91/90/आई.आर.बी. 2]

ब्रज मोहन, डेस्क अधिकारी

New Delhi, the 28th July, 1995

S.O. 2276.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, New Delhi as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Bank of Maharashtra and their workmen, which was received by the Central Government on 27-7-95.

[No. L-12012/91/90-IR(B-II)]

BRAJ MOHAN, Desk Officer

ANNEXURE

BEFORE SHRI GANPATI SHARMA, PRESIDING OFFICER, CENTRAL GOVT. INDUSTRIAL TRIBUNAL, NEW DELHI

I.D. No. 83/90

Shri S. V. Alim through,
The General Secretary,
Mahabank Karamchari Sangh 898,
Nai Sarak, Delhi-6.

Versus

Zonal Manager,
Bank of Maharashtra,
6/30-31, EA, Karol Bagh,
New Delhi.

APPEARANCES :

Shri J. M. Sood—for the workman.

None—for the Management.

AWARD

The Central Government in the Ministry of Labour vide its Order No. L-12012/91/90-I.R.B.II dated 7-8-90 has referred the following industrial dispute to this Tribunal for adjudication :

"Whether the action of the management of Bank of Maharashtra, New Delhi not to promote Shri S. V. Alim to the post of Havaladar, the post carrying higher special allowance w.e.f. since when his junior Shri Ram Singh who joined the bank after Shri S. V. Alim i.e. on 1-6-76 and working as Havaladar since November, 1979 is justified? If relief the workman is entitled to?"

2. The workman in his statement of claim alleged that he was employed as subordinate staff by the Management. He alongwith the other four was appointed on the dates given below :—

Name	Date of appointment.
1. S. V. Alim	4-3-74
2. Ram Singh	1-6-76
3. Devi Singh	25-4-77
4. Radhe Sham	31-7-78
5. Sangala Rajendra	18-9-78.

3. The workman was working against the Bill Collector at branch office Karol Bagh when on 26-7-87 his services were transferred to the Connaught Place Branch. The position of the subordinate staff and the special allowance post against which they were posted at the Connaught Place Branch was as follows :—

Name	Date of Appointment	Post held from
Ram Singh	1-6-76	Havaldar Nov. 79
Dev. Singh	25-4-77	Daftri 26-11-79
Radcey Sham	31-7-78	Daftri 26-11-79
Sargela Rajendra	18-9-79	Daftri in 1978

The post of Havaldar and Daftri carry higher special allowance than bill collector which post was held by the workman concerned who joined the services in 1974.

4. Immediately after assuming his duties at the Connaught Place Branch, New Delhi on 23-11-82 the workman approached the management and demanded the post of havaldar which was allotted to his junior Ram Singh. Ram Singh was also getting the allowance since 1979 but since the workman was senior to him so he was entitled for the said allowance. He reportedly asked for the said allowance but the management refused the claim on 14-3-1983 on vague grounds like his transfer to the Connaught Place branch because of some punishment awarded to him in some departmental enquiry. The refusal was passed on wrong footing because the workman in the said enquiry was awarded the punishment of stoppage of one increment for one year and it had nothing to do with the seniority of service put. He was rightly entitled to the post of Havaldar and in view of the seniority of service put in by him. A reference was made to this Tribunal by the Government of India in one similar dispute which were thoroughly dealt with as I.D. No. 67 of 1991 between Krishan Singh Singhela and Management of the Bank of Maharashtra. The matter was decided by Shri O. P. Singla, the then Presiding Officer, C.G.I.T. which was published in the Gazette of India dated 12th May, 1984 at page 1462-63 and the following was held :—

"In the matter of special allowances, the town is to be considered as the basis of seniority and not the branches as unit for the purposes of seniority amongst the staff, even in the cases of subordinate staff."

The Award given by the Tribunal was challenged in the Hon'ble High Court but the same was dismissed by the Delhi High Court. Action of the Management in not promoting the workman concerned as Havaldar from November, 79 was illegal and the same may be declared as such.

5. In the written statement management alleged that in the Bipartite Settlement in which the list of special allowance post in subordinate cadre in ascending order had been given and no procedure was laid down as to how those posts are to be allotted. At the time of allotment of allowance post of Havaldar at Connaught Place Branch the bank had allotted the post as per circular dated 5-8-74 to Mr. Ram Singh who happened to be the senior most employee at Connaught Place branch at that time. The present workman was working at Karol Bagh Branch and not at Connaught Place and was allotted allowance carrying post as Bill Clerk at Karol Bagh on the basis of his seniority at Karol Bagh. As per same circular dated 5-8-74 he never raised any dispute regarding the allowance being paid to him or to Ram Singh. He had also claimed the Havaldar allowance from 26-3-82 and not from 1979 when the post was allotted to Ram Singh at Connaught Place branch. The decision given by the Industrial Tribunal in the case of Krishan Singh Singhela was on different facts which were not relevant to the present case and it was in the individual dispute and the procedure was not binding on all cases. The Havaldar allowance could not be paid retrospectively without performing additional duties/responsibilities as per provisions of the Bipartite Settlement dated 19-10-66. The workman in 1936 GI/95—7

this case continued to be paid Bill Collector's allowance even after his transfer to Connaught Place branch under the provisions of the circular dated 5-8-74. The workman was not entitled to the allowance of Havaldar on the grounds alleged by him in his statement of claim.

6. The workman himself appeared as WW1 as his own witness while the management examined C. S. Khandekar MW1, and Ram Singh MW2.

7. I have heard representatives for the parties and have gone through the record.

8. Both the representatives for the parties in their oral as well as written arguments reiterated what was alleged in the statement of claim and the written statement.

9. A perusal of the points urged by the representative for the parties and the evidence on the record shows that the workman himself was getting allowance of Bill Collector as per circular dated 5-8-74 not only in the Karol Bagh Branch where he was earlier working but also in the Connaught Place Branch where he was subsequently transferred. He never performed the duties of Havaldar and the special allowance is payable to the person who performs the duties against the said post. The practice of giving the special allowance post at the relevant time was on the basis of branchwise seniority. The present workman did not represent for this allowance during the year 1979 to 1982 i.e. for a period of 3 years and no satisfactory reason has been given by him for not asking for the said allowance post or for his posting as Havaldar. In the year 1979 he was senior most sub-staff in the Connaught Place branch for posting as Havaldar and the post was accordingly allotted to him. The workman did not object to this allowance and though he was fully aware that the post of Havaldar was allotted to Ram Singh in the year 1979 as per the then rules of the bank. The circular dated 5-8-74 has been upheld by the Bombay Tribunal in the case of Shri A. R. Kadam deciding a dispute No. 114 of 1988. The post carrying higher allowance could be claimed only if a person has worked in the post. The claim of the workman as such was not tenable and the action of the Management was justified.

6th June, 1995.

GANPATI SHARMA, Presiding Officer

नई दिल्ली, 4 अगस्त, 1995

का.आ. 2277—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सेंट्रल रेलवे, झांसी के प्रबन्धन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनवरत में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 4/8/95 को प्राप्त हुआ था।

[संख्या एल-41011/24/90-आईआरडीय(बी1)]

के.वी.बी. उन्नी, डेस्क अधिकारी

New Delhi, the 4th August, 1995

S.O. 2277.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Central Railway, Jhansi and their workmen, which was received by the Central Government on the 4-8-1995.

[No. L-41011/24/90-IRDU|BI]
K. V. B. UNNY, Desk Officer

ANNEXURE

BEFORE SRI B. K. SRIVASTAVA, PRESIDING OFFICER, CENTRAL GOVERNMENT, INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, PANDU NAGAR, DEOKI PALACE ROAD, KANPUR

Industrial Dispute No. 239 of 1989
In the matter of dispute between :

President,
Chaturth Shraini Rail Mazdoor Congress,
4, Hirapur Nagar,
Jhansi-284001.

AND

Senior D.C.S.,
Central Railway,
Jhansi-284001.

AWARD

1. Central Government, Ministry of Labour, vide its notification No. L-41012/52/89-I.R.(D.U.) dated 5-10-89, has referred the following dispute for its adjudication to this Tribunal—

“Whether the action of Senior D.C.S., Central Railway, Jhansi in terminating the services of Shri Bhagirath, S/o Sh. Dhansu w.e.f. 8-6-88 is justified? If not, to what relief the concerned workman is entitled?”

2. The concerned workman Bhagirath Singh in his written statement has alleged that originally he was appointed as casual worker on 5-8-73 by opposite party Central Railway. Earlier his services were terminated on 13-8-84. However, he was again appointed as Seasonal Waterman on 1-4-86. He attained temporary status as he had worked for more than 120 days on 2-4-87 when he met with an accident during the course of duty. In the course of his treatment his right hand was amputated. He was not taken on job after he was discharged from the hospital on the ground that he was not medically fit on discharge from his duties. His grievance is that his termination order is bad in law and in any case he ought to have been given a post keeping in view his physical ability.

3. The railway has filed written statement in which it has been denied that the concerned workman had attained the temporary status. Nothing else has been said.

4. The only point which needs consideration is as to whether the workman was entitled to continue after he was discharged from the hospital.

5. In this regard reference may be made to the statement of the concerned workman which he gave in the cross examination. He had specifically stated that after his hand was amputated doctor had certified that he was not physically fit to carry on the work which he was doing. In other words

he was not physically fit to serve as seasonal waterman. It is well settled law that when a workman is physically handicapped the employer is justified in dispensing with his services. In view of this settled law I think that the employer was justified in terminating the services of the concerned workman because of his physical disability.

6. The authorised representative for the concerned workman has urged that atleast the concerned workman ought to have been given some alternative job having less onerous physical work. In my opinion, no direction can be given in this case, in this regard, as there is no reference on this point. It cannot be said that this aspect is covered by the second limbs of the reference as it does not flow from the termination order.

7. In my opinion, the railway was justified in terminating the services of the concerned workman and he is not entitled to any relief.

8. However, as the injury which has resulted in the disability of the concerned workman was caused during the course of employment, on humanitarian ground I would recommend that he may be given some alternative job which may be suitable to his physical fitness.

9. Reference is answered accordingly.

B. K. SRIVASTAVA, Presiding Officer

नई दिल्ली 4 अगस्त, 1995

का.आ. 2278 --औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अन्वय में, केन्द्रीय सरकार सेन्ट्रल रेलवे, झांसी, के प्रबन्धकों के संघर्ष नियोजकों और उनके कर्मचारों के बीच अन्तर्ग्रह में निश्चित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचपट को प्रकाशित करती है जो केन्द्रीय सरकार को 4-8-95 को प्राप्त हुआ था।

[संख्या एल-41012/52/89-आईआर डीयू/बी-1]

के.वी.बी.उन्नी, डेस्क अधिकारी

New Delhi, the 4th August, 1995

S.O. 2278.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure in the industrial dispute between the employers in relation to the management of Central Railway, Jhansi and their workmen, which was received by the Central Government on the 4-8-1995.

[No. L-41012/52/89-IRDU(BI)]

K. V. B. UNNY, Desk Officer

ANNEXURE

BEFORE SRI B. K. SRIVASTAVA, PRESIDING
OFFICER, CENTRAL GOVERNMENT, INDUS-
TRIAL TRIBUNAL-CUM-LABOUR COURT,
PANDU NAGAR, DEOKI PALACE ROAD,
KANPUR

Industrial Dispute No. 253 of 1990

Industrial Dispute between :

President,
Rashtriya Chaturth Shreni Rail Mazdoor
Sangh,
Nanneir,
Agra.

AND

Divisional Railway Manager,
Central Railway,
Jhansi.

AWARD

1. Central Government, Ministry of Labour, vide its Notification No. L-41011/24/90-I.R. (D.U.) dated 21-10-90, has referred the following dispute for adjudication to this Tribunal—

Whether the D.R.M. Central Railway Jhansi and AEN(M) Agra Cantt. were justified in reverting S/Sri Raghubir Singh Yadav, Kallankhan, Kailash Chand, Man Singh, and Dhunimal from the post of Pump Operator to the post of Gangman under PWI Agra Cantt? If not, to what relief the workmen are entitled?

2. In this reference there are five workmen viz. Raghubir Singh Yadav, Kallankhan, Kailash Chand, Man Singh and Dhunimal. It is alleged that all of them were initially appointed as Khalasi in grade IV in the pay scale of Rs. 750—940 by the opposite party Central Railway Jhansi. Lateron they were assigned to do the work of Pump Operator. They have done this job from the date as under—

Raghubir 26-10-84 to 18-2-90
Man Singh 17-5-88 to 18-2-90
Kallankhan 17-5-88 to 18-2-90
Kailash Chand 1-2-86 to 18-2-90
Dhunimal 1-1-86 to 18-2-90

It is alleged that they have performed the job of Pump Operator continuously for the period mentioned above. Lateron some of the workmen applied up 33C(2) of the Industrial Disputes Act for additional wages on the plea of EQUAL PAY FOR EQUAL WORK. Hence the employer had reverted them to the post of Gangman, a class IV job. This reversion amounts to punishment which could not be done without giving an opportunity to the concerned workmen. As such this reversion order is bad in law.

3. The management has filed written statement in which only legal pleas have been raised and nothing has been said on facts. It has been alleged that Railway is not an Industry and further the present reference is barred by section 14 of Central Administrative Tribunal Act, 1985.

4. In the first place it is to be seen whether the concerned workmen were promoted and worked as Pump Operators from the dates as mentioned above. In their written statement the employer had not specifically denied it. As such in view of provisions of Order 8 Rule 5 C.P.C. it will be deemed that these facts are admitted to the management. Apart from this there is uncontroverted evidence of Kallan Khan on record.

5. In my opinion, from the above it is fully established that the concerned workmen were reverted to the post of Pump Operator from the date as mentioned in the opening para of their claim petition. Admittedly no show cause notice was given to them before imposing this punishment. Hence it is bad in law.

6. The management has raised the objection that railway is not an industry. I do not agree with this contention. Various High Courts have repeatedly held that Railway is an Industry. It is so well settled law that it hardly needs citation of any authority. Hence, this contention is overruled.

7. As regards bar of section 14 of Central Administrative Tribunal Act, 1985, I do not find any substance in it. In my opinion, it does not oust the jurisdiction of this Tribunal. Instead a correct position is this that in such matter the concerned workman can avail either of these forums. In other words jurisdiction of both the forum is concurrent in this regard. As such this contention is overruled.

8. In the end it is held that the action of the management is not justified and it is further held that the concerned workmen are entitled to difference of wages between the post Pump Operator and Gangman. Management shall pay costs Rs. 200 to each of the concerned workmen.

9. Reference is answered accordingly.

B. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 7 अगस्त, 1995

का.आ. 2279.—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा-1 की उप धारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा 16-8-1995 को उस तारीख के रूप में नियम करती है, जिसको उक्त अधिनियम के अध्याय-4 (धारा-44 और 45 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है) और अध्याय-5 और 6 (धारा-76 की उपधारा (1) और धारा-77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है) के उपबन्ध हरियाणा राज्य के

निम्नलिखित क्षेत्र में प्रवृत्त होंगे, अर्थात्:—

“जिला अम्बाला के राजग्व ग्राम बुदनपुर हवबस्त संख्या 372, के अन्तर्गत आने वाले क्षेत्र”।

[संख्या एन-38013/44/95-एमएस-1 क]

जे.पी. शुक्ला, अवसर सचिव

New Delhi, the 7th August, 1995

S.O. 2279.—In exercise of the powers conferred by sub-section (3) of Section 1 of the Employees' State Insurance Act, 1948 (34 of 1948), the Central Government hereby appoints the 16th August 1995 as the date on which the provisions of Chapter IV (except Sections 44 and 45 which have already been brought into force) and Chapter V and VI (except sub-section (1) of Section 76 and Sections 77, 78, 79 and 81 which have already been brought into force) of the said Act shall come into force in the following areas in the State of Haryana namely:—

“Area comprising the revenue village Budenpur, Rad-bast No. 372 in District Ambala”.

[No. S-38013/44/95-SS. II]

J. P. SHUKLA, Under Secy.

नई दिल्ली, 8 अगस्त, 1995

का.आ. 2280.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार श्री एसोसिएटेड स्टोन इण्डस्ट्रीज (कोटा) लि. के प्रबन्धतंत्र में संयुक्त नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कोटा के पंचाट को प्रकाशित करती है जो केन्द्रीय सरकार को 8-8-1995 को प्राप्त हुआ था।

[संख्या एन-29012/9/90-आईआर(विविध)]

वि.एम. डेविड, डेस्क अधिकारी

New Delhi, the 8th August, 1995

S.O. 2280.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Kota as shown in the Annexure, in the industrial dispute between the employers in relation to the management of the Associated Stone Industries (Kota) Ltd. and their workmen, which has received by the Central Government the 8-8-1995.

[No. L-29012/9/90-IR(MISC)]

B. M. DAVID, Desk Officer

न्यायाधीश, औद्योगिक न्यायाधिकरण (केन्द्रीय) कोटा, राजस्थान निर्देशप्रकरण क्रमांक : ओ.न्या. (केन्द्रीय) 7/90

दिनांक स्थापित : 19-3-90

प्रसंग : भारत सरकार, श्रम मंत्रालय, नई दिल्ली के आदेश क.एन. 29012/9/आई.आर. (विविध)

औद्योगिक विवाद अधिनियम, 1947

राष्ट्रीय खान भजदूर यूनियन, रामगंजमंडी, कोटा।

—प्रार्थी यूनियन

एवं

श्री एसोसिएटेड स्टोन इण्डस्ट्रीज, कोटा (लि.),
रामगंजमंडी।

—प्रतिपक्षी नियोजक

उपस्थित

श्री आर.के. चावान,

आर.एच.जे.एस.

प्रार्थी यूनियन की ओर से प्रतिनिधि : श्री के. एम. यादव
प्रतिपक्षी नियोजक की ओर से : श्री डी.सी. जैन
अधिनिर्णय दिनांक : 30-3-95

अधिनिर्णय

भारत सरकार, श्रम मंत्रालय द्वारा निम्न निर्देश औद्योगिक विवाद अधिनियम, 1947 जिसे तदुपरान्त “अधिनियम, 1947” से संशोधित किया जायेगा की धारा 10(1)(घ) के अन्तर्गत इस न्यायाधिकरण को अधिनिर्णयार्च सम्प्रेषित किया गया है :

“Whether the action of the management of M/s. Associated Stone Industries (Kota) Limited, Ramganjmandi in terminating the services of Shri Kesrilal, Stone Cutter| w.e.f. 3-5-89, is justified. If not what relief the workman is entitled to?”

2. निर्देश न्यायाधिकरण से प्राप्त होने पर दर्ज रजिस्टर किया गया व पक्षकारों की सूचना जारी की गयी जिस पर दोनों पक्षों की ओर से अपने-अपने अभ्यावेदन प्रस्तुत किये गये।

3. यह पत्रावली वास्ते माध्य प्रतिपक्षी 15-6-95 को नियत थी परन्तु पक्षकारों की प्रार्थना पर आज पेशी में ली गयी। प्रार्थी श्रमिक केसीलाल मय प्रतिनिधि श्री के.एम. यादव व प्रतिपक्षी की ओर से श्री डी.सी. जैन उपस्थित हुए। पक्षकारों ने प्रकट किया कि उन्होंने लोक न्यायालय की प्रेरणा से प्रेरित होकर इस मामले में दिनांक 28-3-95 को आपसी समझौता कर लिया है और अब समझौते के उपरान्त कोई विवाद शेष नहीं रखना प्रकट किया है। दोनों पक्षों की पेशगुदा

समझौते पत्र को पढ़कर सुनाया व समझाया गया जो दोनों पक्षों ने सही होना स्वीकार किया है। इस न्यायालय द्वारा भी समझौते का अवलोकन किया जो दोनों पक्षों के हित में प्रतीत होता है, अतः समझौता तस्दीक किया जाकर शामिल किया गया। इस समझौते से दोनों पक्ष सम्बद्ध रहेंगे। अतः समझौते के आधार पर इस प्रकरण से इसी प्रकार अधिनियम पारित किया जाता है।

इस अधिनियम को समुचित सरकार को नियमानुसार प्रकाशनार्थ भिजवाया जावे।

आर.के. चाचान, न्यायाधीश

नई दिल्ली, 8 अगस्त, 1995

का.प्रा. 2281.—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 1 की उप धारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्द्वारा 16-8-95 को उम तारीख के रूप में नियत करती है, जिसको उक्त अधिनियम के अध्याय 4 धारा 44 और 45 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है और अध्याय 5 और 6 धारा 76 की उपधारा (1) और धारा 77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है के उपबन्ध मध्य प्रदेश राज्य के निम्नलिखित क्षेत्र में प्रवृत्त होंगे, अर्थात् :

“जिला रायपुर की तहसील रायपुर में राजस्व ग्राम उरला, अछोली, गोगांव, चंदनडीह, बीरगांव, खमतलाई, सरोरा, टाटीबन्ध, सोनडागरी, गोंदवारा, संपूर्ण रिंग रोड नं 2, टाटीबन्ध मिलतरा, गिरोंद, टाडा, मांढर, आकोली, सांकरा तथा संपूर्ण उरला औद्योगिक क्षेत्र तथा अन्य क्षेत्र जो औद्योगिक क्षेत्र घोषित हो चुके हैं।

[संख्या एल-38013/45/95-एस एस-1]

जे.पी. शुक्ला, अव्वर सचिव

New Delhi, the 8th August, 1995

S.O. 2281.—In exercise of the powers conferred by sub-section (3) of Section 1 of the Employees' State Insurance Act, 1948 (34 of 1948) the Central Government hereby appoints the 16th August, 1995 as the date on which the provisions of Chapter IV (except Sections 44 and 45 which have already been brought into force) and Chapter V and VI (except sub-section (1) of Section 76 and Sections 77, 78, 79 and 81 which have already been brought into force) of the said Act shall come into force in the following areas in the State of Madhya Pradesh namely :—

The area comprising the revenue villages of Urla, Achholi, Gogaon, Chandanidih, Beer Gaon, Khamtarai, Sarora, Tati-bandh, Sondongri, Gondwara, Complete Ring Road No. 2 Tati Bandh, Siltara, Girod, Tada, Mandhar, Akoli, Sankra including complete industrial area of Urla and other areas declared Industrial

Area in the Tehsil Raipur District, Raipur.

[No. S-38013/45/95-SS. I]
J. P. SHUKLA Under Secy.

नई दिल्ली, 20 जुलाई, 1995

का.प्रा. 2282.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार टेली काम के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, सूरत (गुजरात) के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-7-95 को प्राप्त हुआ था।

[सं. एल-40012/17/95-आई आर डी यू]

के. वी. बा. उन्नी, डेस्क अधिकारी

New Delhi, the 20th July, 1995

S.O. 2282.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Surat (Gujarat) as shown in the Annexure, in the Industrial dispute between the employers in relation to the management of Telecom and their workmen, which was received by the Central Government on 19-7-95.

[No. L-40012/17/95-IR(DU)]

K. V. B. UNNY, Desk Officer

ANNEXURE

Ex. 35
BEFORE SHRI E. B. DUMASIA, PRESIDING OFFICER,
INDUSTRIAL TRIBUNAL, SURAT, GUJARAT STATE,
INDIA

Reference (I.T.C.) No. 1 of 1993

First Party :—

- (1) The Telecom District Engineer, At and Post Valsad, District Valsad, Gujarat State, India.
- (2) The Sub-Divisional Officer, Phones, At and Post Valsad, District Valsad, Gujarat State, India.

Vs.

Second Party :—

Shri Ashok Raghunath Patil, C/o Prakash Bhagwan Patil, Regular Mazdoor, Telephone Exchange, Navsari (Juna Thana), District Valsad, Gujarat State, India.

Reference under Section 10(2A)(1)(d) of the Industrial Disputes Act, 1947.

APPEARANCES :

For 1st Party.—Shri Shivapujanram, N. G. T.O.A. C/o. T.D.M., Valsad.

For 2nd Party.—Shri M. S. Chaudhari, Assistant Circle Secretary, A.I.T.E. Union.

Reference under Section 10(1)(d) and 2(A) of the Industrial Disputes Act, 1947.

AWARD

(1) The Government of India, Ministry of Labour, New Delhi, has made the present reference, as per provisions of Section 10(1)(d) and 2(A) of the Industrial Disputes Act, 1947 (hereinafter called the said Act), for adjudication of the Industrial Dispute specified in the Schedule, reading as under :—

“Whether the action of the Management of Telecom District Engineer, Valsad, through S.D.O. Phones, in terminating the services of Shri Ashok Raghunath

Patil, with effect from 1-10-1987 is legal and justified ?

If not, what relief the workman concerned is entitled to ?”

(2) On service of notice, the parties appeared before this Tribunal.

(3) The First Party—Management, is represented by Shri Shivapujanram, N. G. T.O.A. c/o. T.D.M. Valsad, and the second party—the workman, is represented by Shri M. S. Chaudhari, Assistant Circle Secretary, A.I.T.E. Union.

(4) The statement of claim of the workman is filed at Ex. 3, and *inter alia* contended that, the workman was working as casual labourer under S.D.O. Telegraphs, Navsari for the period from 1-5-1985 to 31-7-1985, and thereafter, he was directed to work under S.D.O. Phones, Navsari, where he worked as casual labourer for the period from 1-8-1985 to 30-9-1987 for 703 days. Thus, he was in service for more than 240 days continuously as on 30-9-1987, and hence, he was in service for more than one year as on 30-9-1987 within the meaning of Section 25-B of the said Act. Under this set of circumstances, for purpose of putting an end of his services, conditions precedent to retrenchment of workman, as specified under Section 25-F of said Act, was required to be followed. This legal position is also set out in the instructions laid down by the Director General, Post and Telegraphs Department, New Delhi, issued vide No. 269/130/78-STN dated 1-10-1984 (copy at Ex. 2/4) as well by Shri C. K. Reddi, Member (Personnel) Ex-Officio Additional Secretary to the Government of India, Telecommunication Board, Department of Telecommunication, New Delhi, in his D.O. No. 270/6/84-STN dated 23-6-1987, (copy at Ex. 2/5). It is also averred that, as per judgment of the Supreme Court in C.W.P. No. delivered on 27-10-1987, directing the Union of India in P&T Department, to prepare a scheme on rational basis for absorbing as far as possible the casual labourers, who have been continuously working for more than one year in the Post and Telegraphs Department and the subsequent directions dated 26-9-1988, he cannot be discharged from service. It is contended that, irrespective of the said legal position, his services were orally terminated with effect from 1-10-1987, by First Party No. 2, without giving one month's notice and even without paying wages for the period of notice, in lieu of such notice, as provided under Section 25-F (a) of the said Act, as well as without payment of the retrenchment compensation, as provided under Section 25-F (b) of the said Act, and even without serving notice to the appropriate Government or the specified authority, as provided under Section 25-F (c) of the said Act. It is averred that, for putting an end of the services of the workman, the compliance of the conditions of Section 25-F (a), (b) and (c) is must, and the action of the Management, of terminating his services, in violation of said indispensable conditions, is *ab initio* null and void and illegal. It is then contended that, thereafter, First Party Nos. (1) and (2) were approached vide letter dated 14-12-1990 (copy at Ex. 2/8) and letter dated 17-9-1991 (copy at Ex. 2/9), with a request to re-instate the workman in service, but, in vain. Ultimately, conciliation proceedings were resorted to, and, on account of failure report by the Assistant Labour Commissioner (Central) Ahmedabad, to the Ministry of Labour Government of India, New Delhi, vide his letter No. AH/ALC-II/8(77)/91, dated 7-1-1992, the present Reference is made. It is prayed that, the First Party Nos. (1) and (2) be directed to reinstate the workman in services, with retrospective effect from 1-10-1987, with all the benefits of back wages, seniority and continuity of services, with further direction of payment of damage amount of Rs. 5,000 and costs of the Reference.

(5) On behalf of First Party No. (1) and (2), the written statement is filed at Ex. 26. The case of the workman that, he has worked as casual labourer under S.D.O. Telegraphs, Navsari for period from 1-5-1985 to 31-7-1985 and thereafter under S.D.O. Phones, Navsari from 1-8-1985 to 30-9-1987 for 703 days, and thereby workman was in service for more than 240 days continuously as on 30-9-1987, and hence he was in service for more than one year as on 30-9-1987 within the meaning of Section 25-B of the said Act, is not at all denied. But, it is contended that, the office of Telecommunications Board, Department of Telecommunications, New Delhi had issued orders on 30-3-1985 that, no

new recruitment of casual Mazdoors shall be resorted to, after the date of issue of the Circular. The orders for retrenchment of casual labourers employed after 30-3-1985 were received from the D.O.T. New Delhi, in 1987, and accordingly, all those casual Labourers, including present workman Shri Ashok Raghunain Patil, employed after 30-5-1985 were retrenched from services. As per instructions of D.O.T. New Delhi, the said workman should have been retrenched by the Controlling Officer by giving one month's notice or paying one month's wages in lieu of one month's notice period. But, for non-compliance of the same, the workman should have taken up the case in 1987, and that too for payment of one month's wages only. It is contended that there is no justification for prayer of re-instatement in service on the ground of non-payment of one month's wages in lieu of one month's notice period. It is then contended that, in 1985, the instructions were received from D.O.T. New Delhi, vide No. 269-10/89-STN dated 7-11-1989, for grant of temporary status to casual Labourers employed prior to 30-3-1985 currently employed, i.e. in 1989, and, fulfilling conditions mentioned therein. However, the employee Shri A. R. Patil was not entitled or eligible for grant of said temporary status, being employed after 30-3-1985. In 1991, the D.O.T. New Delhi, had asked the names of casual labourers, who have been employed after 30-3-1985, in spite of the ban orders. His case does not conform to even those cases, which were to be referred to the D.O.T. New Delhi, as Special Cases, as, he was not working in the Department at that time. Also, as per revised instructions of D.O.T. New Delhi received in January 1994 regarding grant of temporary status to the casual Labourers, engaged between 31-3-1985 and 22-6-1988, his case cannot be considered, being already retrenched from services. Ultimately, it is contended that, at the most, the Ex-employee Shri A. R. Patil may be ordered to be paid one month's wages in lieu of one month's notice period, and the present Reference, for all reliefs, namely, re-instatement, damage and costs, may please be rejected.

(6) On behalf of the 2nd party—the employee Shri A. R. Patil, rejoinder reply is filed at Ex. 28, whereby his case already advanced in statement of claim Ex. 3, is re-iterated with the denial of the case of First Party enumerated in their written statement Ex. 26.

(7) So far as the oral evidence is concerned, it is recorded by way of affidavit, with the right of other side to cross examine.

(8) The affidavit of the second Party Shri A. R. Patil is at Ex. 16. With documentary list Ex. 2 on his behalf, documents are produced at Exs. 2/1 to 2/12. The same documents, in two sets, are again produced with the documentary list at Ex. 7.

(9) On behalf of the First Party—Management, with the documentary List Ex. 27, documents are produced at Exs. 27/1 to 27/7, and with the documentary list Ex. 31, two documents are produced at Exs. 31/1 and 31/2. The First Party—Management has noted any oral evidence.

(10) The written arguments on behalf of Second Party—the workman, is at Ex. 34, and the written arguments on behalf of First Party—Management, is at Ex. 35. Each party has advanced the arguments in tune with the respective case advanced in the respective pleadings, namely, statement of claim and written statement.

(11) The following issues arise for determination in the present reference :—

1. Whether the termination of the services of the casual Labourer Shri A. R. Patil amounts to illegal retrenchment ?
2. If so, what relief the workman Shri A. R. Patil is entitled to ?
3. What final order ?

(12) The findings on above issues are as under :—

1. In the affirmative.
2. Relief of re-instatement, but, without back wages.
3. As per final order.

(13) Issue No. 1.—From the above pleadings, the following facts are admitted :—

- (1) That, the ban was placed by Office of D.O.T., New Delhi, with effect from 30-3-1985 against recruitment of casual Mazdoors.
- (2) That, number of Casual Labourers, inclusive of employee Shri A. R. Patil, were recruited after 30-3-1985 by the Management, in view of presumably the ignorance of the ban or some compelling reasons.
- (3) That, employee Shri A. R. Patil had worked as casual Labourer under S.D.O., Telegraphs, Navsari, from 1-5-1985 to 31-7-1985, and under S.D.O. Phones, Navsari from 1-8-1985 to 31-9-1987, for 703 days.
- (4) That, employee Shri A.R. Patil has worked for more than 240 days during the relevant period of twelve calendar months, and hence, had put in continuous service for a period of one year, as per provisions of Section 25B of the Act.
- (5) That, subsequently in 1987, the orders were issued by the office of D.O.T. New Delhi, to terminate the services of all casual Mazdoors, employed after 30-3-1985, of course, following all necessary obligations under Labour Laws and Acts.
- (6) That, in view of said directions, the services of the employee Shri A. R. Patil were terminated with effect from 1-10-1987, but, without complying the conditions of Section 25-F (a), (b) and (c) of the said Act.

(14) Regarding the obligations on part of the Management to be fulfilled while terminating the services of the workman Shri A.R. Patil, the case advanced by the Management is that, the Controlling Officer should have retrenched him by giving one month's notice, or paying one month's wages in lieu of said notice, and nothing more, and for non-compliance of said condition, at the most now the workman is entitled to get one month's wages only, and nothing more.

(15) The correct legal position is as under.

(16) The nature work of the employee Shri A.R. Patil was manual labour work. Now, therefore, he falls within the definition of 'workman' under Section 2(s) of the said Act.

(17) The services of the employee Shri A.R. Patil are terminated on account of the directions issued by Office of D.O.T. New Delhi, to terminate the services of all casual Mazdoors employed after 30-3-1985. Now, therefore, the termination of service of employee Shri A. R. Patil is covered by clause "for any reason whatsoever" enumerated in the definition of "Retrenchment" specified under Section 2(oo) of the said Act. Said action of the Management, does not fall within the ambit of certain acts specifically included under definition of retrenchment under section 2(oo) of said Act. Now, therefore, the act of the Management to terminate the services of the employee Shri A. R. Patil amounts to retrenchment as defined under section 2(oo) of the said Act.

(18) Shri A. R. Patil is, therefore, a retrenched workman. In case of Cawnpore Tannery Ltd. Vs. S. Guha, A.I.R. 1967 Supreme Court, 667, the Supreme Court has held that, a retrenched workman is a workman within definition of Section 2(s) of the said Act.

(19) Let us now examine the effect of non compliance of conditions of Section 25 F (a), (b) and (c) of the said Act.

(20) Supreme Court, in the case of Bombay Union of Journalists Vs. State of Bombay, 1964 I, LLJ 351 (S.C.), has held that, the requirement of service of notice, or paying wages in lieu thereof under Section 25-F (a) is mandatory. The Supreme Court, in the case of National Iron and Steel Company Ltd. V. State of West Bengal, 1967 II, L.L.J. 23 (S.C.), and in the case of Senior Superintendent Vs. K.V. Gopinath, 1972 I L.L.J. 486 (S.C.), has held that, the retrenchment effected without complying with requirements of Section 25-F (a) would be illegal and ineffective.

(21) The Supreme Court has also held that, requirement of paying compensation under Section 25-F(b) is mandatory precondition for valid retrenchment, and non-compliance makes retrenchment invalid and inoperative. Reference -

- (1) Ram Krishna Ramnath Vs. Presiding Officer, Labour Court, 1970 II, L.L.J. 306 (S.C.);
- (2) National Iron and Steel Co. Ltd. Vs. State of West Bengal, 1967 II, L.L.J. 23(S.C.);
- (3) Bombay Union of Journalists Vs. State of Bombay, 1964 I, L.L.J. 351 (S.C.); and
- (4) State of Bombay Vs. Hospital Mazdoor Sabha, 1960 I, L.L.J. 251 (S.C.).

(22) So far as the condition of service of notice to appropriate Government or specified authority under Section 25-F (c) is concerned, the Supreme Court, in the case of Bombay Union of Journalists Vs. State of Bombay, 1964 I, L.L.J. 351 (S.C.) has held that, for valid retrenchment, clause 25-F(C) does not constitute condition precedent, which has to be fulfilled before retrenchment, but, it is all the same, a mandatory requirement. It must be fulfilled after retrenchment, and non-compliance would make retrenchment illegal, invalid and inoperative.

(23) In view of above legal position for legal/valid retrenchment, compliance of conditions of Section 25-F (a), (b) and (c) is indispensable SINE QUA NON condition.

(24) Shri A.R. Patil was casual labourer. The Management of Calcutta Telephones was resorting to the employment of casual labourers, and question arose as to whether casual employee falls within the ambit of Section 25-F, and the Division Bench of Calcutta High Court, in the case of Tapan-kumar Jana Vs. General Manager, Telephones, 1981 L.A.B. I.C. (N.O.C.) 68, has held that, the benefit of Section 25-F is available to the casual workman as well, provided the conditions of Section 2(s) of the said Act are fulfilled. The Supreme Court, in the case of L. Robert D'souza Vs Executive Engineer, A.I.R. 1982, S.C., 845, has held that, casual workman falling within the ambit of Section 2(s) is entitled to the benefit of Section 25-F.

(25) Shri A.R. Patil, as discussed hereinabove, is the workman under Section 2(s) of the said Act. He also satisfies the requirement of continuous service for period of one year, as per provisions of Section 25-B of the said Act, and hence, is entitled to the benefit of Section 25-F of the said Act. Admittedly, conditions of Section 25-F (a), (b) and (c) are not fulfilled, and hence, his retrenchment is illegal and invalid. The answer to issue No. 1, therefore, comes in the affirmative.

(26) Issue No. 2.

This is the issue regarding relief. The Supreme Court, in the case of Surendrakumar Varma Vs. Central Government, Industrial Tribunal-cum-Labour Court, New Delhi, (1981) I, L.L.J. 386 (S.C.), has observed that, illegal retrenchment must ordinarily lead to reinstatement of services of the workman, and it is the discretion of the Tribunal to grant relief of reinstatement with or without back wages, depending upon facts and circumstances of each case. In the case of Coimbatore Pioneer 'B' Mills Ltd. Vs. Labour Court, Coimbatore, 1979 (39), F.I.R. 236, the facts were that, the retrenchment of the workman was for legal and valid reasons, but, the employer had not fulfilled preconditions of Section 25-F. It was held that, the order of retrenchment was invalid, and was observed that, it is the discretion of the Court, either to order re-instatement, or direct payment of compensation in lieu of re-instatement.

(27) The retrenchment of Shri A.R. Patil was with effect from 1-10-1987. There is no cogent reliable evidence regarding gainful earnings or not by Shri A.R. Patil. The preponderance of probability would suggest that, at least, one would remain engaged for minimum earnings for livelihood. Moreover, the recruitment of Shri A.R. Patil was against the ban policy of the D.O.T. New Delhi, presumably in ignorance for existence of ban or some compelling reasons, on part of Controlling Officer at the relevant time. The retrenchment of Shri A.R. Patil was effected on account of

further policy of D.O.T. New Delhi, to retrench all casual Mazdoor recruited after 30-3-1985, as, earlier ban policy was already framed. Now, therefore, considering all the facts and circumstances, while exercising the discretion to grant relief, the most just and appropriate relief would be the relief of re-instatement without back wages, but, with entitlement of all other benefits of continuity of service. The answer to issue No. 2 is given accordingly.

(28) Issue No. 3.

For above reasons, the following order is passed :—

ORDER

The First Party (1) The Telecom District Engineer and (2) The Sub-divisional Officer, Phones, both at and Post Valsad, District Valsad, Gujarat State, India, are hereby directed to re-instate in service the Second Party Mr. A.R. Patil—Mr. Ashok Raghunath Patil at the post/job from which he was retrenched with effect from 1-10-1987 within one month of this award becoming enforceable under Section 17-A of the Industrial Disputes Act, on expiry of thirty days from date of its publication under Section 17 of the Industrial Disputes Act.

Second Party Shri Ashok Raghunath Patil is not entitled to back wages, but, is entitled to all other benefits of continuity of service.

No order as to costs.

Surat.

3rd July, 1995.

E. B. DUMASLA, Presiding Officer Industrial Tribunal,
Surat, Gujarat State, India

नई दिल्ली, 17 जुलाई, 1995

का.आ. 2238.—केन्द्रीय सरकार का यह समाधान हो गया है कि लोकहित में ऐसा अपेक्षित है कि कोल उद्योग को, जिसे औद्योगिक विवाद अधिनियम, 1947 (1947

का 14) की प्रथम अनुसूची के मद 4 में निर्दिष्ट किया गया है, उक्त अधिनियम के प्रयोजनों के लिए लोक उपयोगी सेवा घोषित किया जाना चाहिए;

अतः अब, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खंड 6 के उपखंड [VI] द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार उक्त उद्योग को उक्त अधिनियम के प्रयोजनों के लिए तत्काल प्रभाव से छः मास की कालावधि के लिए लोक उपयोगी सेवा घोषित करती है ।

[संख्या एस-11017/13/81 आईआर (पीएल)]

एम. वेणुगोपालन, अवसर सचिव

New Delhi, the 17th August, 1995

S.O. 2283.—Whereas the Central Government is satisfied that the public interest requires that the Coal Industry which is covered by item 4 of the First Schedule to the Industrial Disputes Act, 1947 (14 of 1947), should be declared to be a public utility service for the purposes of the said Act;

Now, therefore, in exercise of the powers conferred by sub-clause (vi) of clause (n) of section 2 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby declares with immediate effect the said industry to be a public utility service for the purpose of the said Act for a period of six months.

[No. S-11017/13/81-IR(PL)]

S. VENUGOPALAN, Under Secy.